December 2023 *Volume 29, Number 3*

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JOURNAL

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GEORGIA BAR
JOURNAL
December 2023 | Volume 29 | Issue 3

GBJ | *The Features*

24 Fundamental Ethics in Law and Society
PATRICK G. LONGHI

30 The Attorney Personality v. The Lawyering Soul: One Lawyer's Opinion on Hope, Healing and the Sacred Work of a Noble Profession
DERRICK ALEXANDER POPE

40 Paws Between Homes: Lawyers Help Pet Owners in Crisis
COLE THALER



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The Legal

INTRODUCING THE SUPERIOR AND STATE COURT APPELLATE PRACTICE ACT | 16

Hon. Christopher J. McFadden, Hon. Gary E. Jackson and Darron J. Enns



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GBJ | *In Every Issue*

5 Editor's Letter

6 From the President

10 From the YLD President

14 From the Executive Director

42 Bench & Bar

48 Attorney Discipline

68 In Memoriam

69 ICLE Calendar

72 Classified Resources

72 Advertisers Index

46 Office of the General Counsel
Preparation or Coaching?
Paula Frederick

56 Section News
Alternative Dispute Resolution Section Hosts 2nd Annual Conflict Resolution Day
Scott I. Zucker

58 Member Benefits
Document Automation and AI—The Smart Way to Work
Sheila Baldwin

60 Attorney Wellness
What Good Is Stress? Rethinking Our Relationship With Stress to Harness Its Benefits
Samantha Mullis and Plamen Russev

64 Writing Matters
Making Words Count
David Hricik and Karen J. Sneddon

66 Professionalism Page
Georgia On My Mind
Daniel M. Van Horn

The December Issue

I was reflecting on this issue on my flight to Europe ... thinking about all the hope and excitement that exists at the beginning of a trip. I spent some time on the plane daydreaming about how cold it would be, the history I would learn and the new food and drinks I would get to experience. Then, I started thinking about how that notion applies to much of life—the excitement (or anxiety, depending on how you look at it) that comes along with new beginnings and the anticipation of things unknown. Maybe it's the English major in me or the boredom on a plane, but I love themes and decided in-flight that the hope of a new year (not "new year's resolutions") would be my theme for this issue's letter. However, as I read through this publication's content, another topic unfolded: the tension between life's dichotomies and how being a lawyer is no exception.

By the time you pick up this issue, the holidays will have come and gone, and 2024 will be under way. While January marks the new calendar year, the State Bar of Georgia's year began in July, which is when new bills and amendments became effective. We all had to pause mid-calendar year to review changes and stay up to date on the law. Just as those in the legal profession feel this distinction of the calendar year versus the Bar year, that same split exists in the undercurrent of being a lawyer. It means being human and empathetic toward others while simultaneously resolving someone's pain by sometimes passing it along to someone else. We feel that pull to be both human and master advocate.

I think this edition beautifully encompasses both sides. You can read about being a better writer and avoiding violating court rules in briefs, the Superior and State Court Appellate Practice Act and professionalism, to name a few. On the other hand, you can find stories about being human. Until I read this issue, I had not thought about what happens to a pet whose owner is in a housing predicament and the uneasiness of being separated from a beloved animal. As the proud dog mom of a sweet/stubborn shelter dog named Bear, I was elated to read that a few Georgia attorneys started a program to temporarily house pets with the end goal of reuniting them with their owners. They found a creative way to use their legal skills outside their general practice.

While friction is unavoidable in the profession, there's not always an answer to resolving it. As "The Attorney Personality v. The Lawyering Soul" so keenly pointed out: "We are wont to believe that some curative or remedial measures exist, or ought to exist, to ameliorate the condition." As an adult, I've had to learn to sit with those "in-between" feelings—the ones between two variables when there's no immediate solution. Lawyers are notorious for depression and substance abuse, and I think acknowledging the uneasiness of emotions is the start to changing the profession. I love that the YLD president's piece points out that life lessons are everywhere and illustrates how the YLD is embracing this sentiment in nature. If you don't go on hikes or are just curious how to reframe stress, the Attorney Wellness content can provide some valuable insight.

There are many great bits in these pages, and I hope you've enjoyed my perspective on it. As always, it's an honor to be part of the State Bar and thank you for reading this edition of the *Georgia Bar Journal*. I hope you enjoy it. ●

BETH GILCHRIST
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Protecting Georgians from UPL, Runners and "Super Runners"



HON. J. ANTONIO "TONY" DELCAMPO

President
State Bar of Georgia
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The State Bar of Georgia has focused on ensuring the public was adequately protected from persons engaging in the practice of law without the required education, training, experience, professional certification and authority to do so.

In 2003 the Supreme Court of Georgia approved extensive changes to the State Bar's Unlicensed Practice of Law (UPL) Program, creating a statewide Standing Committee and 10 District Committees representing each of the judicial districts in Georgia. Members of all UPL committees are confirmed and appointed directly by the Supreme Court of Georgia and are comprised of lawyer and non-lawyer members, the latter of whom must make up a majority of each committee.

The committees are charged with the consideration of complaints received, processed and thoroughly investigated by the UPL Department staff. The Standing Committee additionally considers requests for advisory opinions.

Since the program's initial launch in 2003, the UPL Department has initiated and conducted more than 2,500 formal investigations. These have resulted in the voluntary execution of more than 600 cease-and desist-affidavits, as well as the filing and litigating by UPL counsel of more than 65 injunctive relief (or contempt) actions in the superior courts of Georgia. Given the scope of this problem, however, our efforts must be better, particularly considering how important this work is and what it means to our mission. We, therefore, are revamping our processes and have made it a priority to ensure all elements of the program are in order, and that our outputs are being produced. As of the Fall Meeting of the Board of Governors, 124 investigations have been opened so far this year. These investigations and this preliminary review involve subjects ranging from disbarred, suspended or out-of-state attorneys to paralegals and other non-attorneys alleged to have engaged in UPL.

When the formal part of an investigation is closed, on average, half will result in subjects agreeing to comply, while most all others will be referred for prosecution. A registry of individuals who have either been permanently enjoined from engaging in the practice of law by court order or have voluntarily executed a cease-and desist-affidavit within the last two years can be found on the Bar's website.

A welcome development in a peculiar element of the UPL space is the Supreme Court of Georgia's recently issued Rule 103 (effective Jan. 1, 2024), which sets out a path for provisional admission to the practice of law in Georgia for military spouses who are lawyers in other states. According to UPL Department Director Steven J. Kaczkowski, "That isn't a wholesale change to the law, but if it happens to apply to you, I would imagine it is a significant and welcome development."

Also in recent years, there has been an evolution when it comes to another sector of UPL enforcement, which deals with so-called "runners," or people who solicit clients on behalf of attorneys, primarily for personal injury and motor vehicle collision lawsuits—stereotypically arriving at hospitals shortly after ambulances to approach victims and/or family members. Our UPL Committee continues to hear from attorneys throughout the state about the challenges that runners pose to the practice of law, and we have made it a priority to improve our processes for the benefit of the citizens of Georgia.

"When the UPL program first started," Kaczkowski said, "it was not uncommon for a runner to illegally misidentify themselves as an attorney. That is UPL, and we investigated and prosecuted it as such. But after a while the runners seemed to catch on that they didn't necessarily need to untruthfully introduce themselves as attorneys (or otherwise need to engage in UPL) in order to get paid for procuring clients."

Now, according to Kaczkowski, the typical runner uses a largely untraceable "burner" phone. "When they contact an accident victim, they don't say they are an attorney, and they don't claim to be tied to a particular law office," he said. "Instead, they present as being concerned about the victim's well-being and future legal representation. They speak in urgent generalities and, when their pitch works, the

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, *we asked our State Bar of Georgia officers, "What's one of your favorite memories from the past year?"*



HON. J. ANTONIO "TONY" DELCAMPO
President

One of my favorite memories of the past year was getting sworn-in as president of the State Bar of Georgia in front of all of my family, colleagues and friends. It was an amazing personal and professional moment in my life!



IVY N. CADLE
President-Elect



CHRISTOPHER P. TWYMAN
Treasurer

One of my favorite Bar memories of the past year was the Fall Meeting at Jekyll Island. It was great being back on the coast on Georgia-Florida weekend to spend time with friends, get a little Bar business done and cheer on the Dawgs!



WILLIAM C. "BILL" GENTRY
Secretary

My favorite memory from 2023 was taking my wife on a river cruise in France. We traveled through Bordeaux, tasting wine and sightseeing. We're hoping 2024 includes more travel!



SARAH B. "SALLY" AKINS
Immediate Past President

We hosted a family gathering at Thanksgiving and about 40 relatives attended, many we had not seen in a long time. It was magical to be surrounded by that much family love, joy and laughter.



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accident victim ends up being represented by an attorney—who pays the runner a fee for the referral."

Of course, there are rules against that. The associated attorney's conduct violates the Georgia Rules of Professional Conduct (GRPC). Those cases are disciplinary and thus brought against the attorney by the Office of the General Counsel. "It's an issue of improper solicitation," said Kaczkowski, "with the 'but for' element provided by the attorney. The activity would not happen if the attorney did not pay the runner for the cases, and the GRPC makes the offense complete upon the attorney making that payment."

Kaczkowski also reports the advent of what one might call the "super runner." These, he said are non-lawyers who establish a law office, obtain the clients and work the cases—usually personal injury. They know that they need to have an attorney associated with the operation in order to give it a veneer of legality, but the runner makes it clear to that attorney that it is they—not the attorney—who run the law office.

The runner who has established this sort of operation has effectively tied the attorney to the office in terms of public image, but has prevented the attorney from being able to exercise any independent professional judgment related to the legal work that goes on in that office. "Why would an attorney consent to such an arrangement?" Kaczkowski said. "Greed. Drive by the office once a week, sign some documents and pick up your 10% cut of the revenue. It's easy money. Almost all lawyers care about being ethical, doing a good job for their clients and obeying the law. But there are those who don't care about any of that, or at least not enough to stop them from partnering with a super runner."

"Most offenders will stop when they find out they are breaking the law or find it likely that they'll run into trouble for doing so," Kaczkowski said. "But there is a certain sort of rapacious person that can only be stopped by confining them to a prison cell. When we encounter a situation like that, we will work with the authorities to make it happen."

This sort of super runner operation violates the UPL statute and likely others, according to Kaczkowski. "It is imperative that these operations be combatted wherever they are found and with all available prosecutorial resources. When one thinks of the structure of this operation, it's easy to see how it exploits those who might not be fully conversant with the nuances of the legal system, our society or the English language."

To that end, the DeKalb County Solicitor-General's Office is to be commended for its current prosecution of two alleged super runners, with a jury trial currently set for late January.

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The work of the Unlicensed Practice of Law Department is a vital component of the State Bar's effort to protect all Georgians and the integrity of the legal profession and our justice system. It is a major part of our work. We are committed to spending the next few months ensuring that the UPL Department is working as it is designed and to exploring how to make it better so we don't lose focus or momentum. For more information about the department's work or to be considered for service on a district or standing committee, please contact the UPL Department at 404-527-8717 or email stevek@gabar.org. ●

Lessons Learned on Hikes



BRITTANIE D. BROWNING

YLD President
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One of my favorite pastimes is hiking in the woods and mountains. The time away from the hustle and bustle of the city to get back into nature is a wonderful way to take a break. What I enjoy most about hiking is that it always allows for personal development, tenacity and ability to keep going even when I've reached exhaustion. This year the YLD has already had two events featuring hikes: the YLD Officers and Directors Meeting and the Tropical Summer CLE in Puerto Rico.

YLD Officers and Directors Meeting

North Georgia is home to some of my favorite state parks to explore and hike, so to kick off my Bar year leading the YLD, I made it a point to have a hike included as part of our meeting with the YLD's officers and directors in August. The YLD officers and directors met at Amicalola Falls State Park for a guided tour of the top of the waterfalls. The hike was a teambuilding activity in nature to focus on our wellness and ability to communicate. What we did not know was that our trail guide would share valuable advice that is applicable to life in general. Our guide gave us five pointers for the time together:

1 Pace Yourself
We were told to remember it is not a race but an individual path. We had to make sure to take breaks as needed and remember no person is the same as the next. It is OK to take a break when going down 425 steps to descend from the top of the waterfalls to the middle section bridge (or especially when going back up those same steps). There is no "winner" of the group, so pacing ourselves ensures our own safety and the safety of the group.

2 No Pointing Fingers
Do not make fun of those on the journey with you for any perceived shortcomings or falters. Our group was instructed to not blame anyone for slowing down the group. Instead, we should extend a hand to help.

3 Teamwork
It takes a group to do this hike together and we do not leave anyone behind. Instead, we maintained a pace that was doable for everyone's level of physical ability.

4 Commitment
Stay in the moment and committed to completing the task (i.e., the hike). The group is committed toward a common goal.

5 Saying Good Job
Give words of affirmation to your partners, friends and teammates.

These guiding principles applied to the next adventurous hike for the YLD.

Tropical Summer CLE

The second hike for the Bar year occurred when the YLD and Board of Governors held a Tropical Summer CLE in Puerto Rico in September. One of the excursions available included a tropical rainforest hike and waterfall exploration. The hike involved a challenging climb up a "hill" that involved, at one point, crawling up on all fours to traverse the terrain. The hike ended at waterfalls with natural waterslides, which unfortunately we were unable to try out due to the water levels; however, we did get an opportunity to cliff jump. The experience allowed us all to learn about the wellness tips learned in our Wellness CLE panel discussion. We learned a host of wellness tips at our CLE the prior day that came into full effect on the hike for our group. Our trail guides provided two main takeaway points from this hike:

1 Go Through the Mud (You Can't Avoid It)

It became quite clear that there was no avoiding the mud in the rainforest. Our trail guide made a point to let us all know that we have to go through the mud; it was more dangerous to try to avoid it by going around it. We knew we were going to get dirty and muddy but once we embraced the fact that it was inevitable, it was liberating. Our group could just enjoy the present moment and the task at hand knowing we would get to wash off in a

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, *we asked our YLD officers, "What's one of your favorite memories from the past year?"*



BRITTANIE D. BROWNING | *YLD President*

One of my favorite moments so far in the YLD Bar year has been the murder mystery dinner at the YLD Fall Meeting in Charleston. The people selected to play characters got into their roles making it a lot of fun for everyone at the dinner.



KENNETH MITCHELL JR. | *YLD President-Elect*

One of my favorite memories was being able to spend time with my family in the Bahamas for vacation.



VERONICA ROGUSKY COX | *YLD Treasurer*

My husband and I welcomed our first child into the world this year. We are truly blessed to have this little girl in our lives. It's unquestionably my top memory of 2023.



VIRGINIA C. JOSEY | *YLD Secretary*

This has easily been my busiest and most wonderful professional year. I moved into my new firm office in downtown Macon. I traveled with the Bar to Puerto Rico. Finally, I taught my first Advanced Litigation Drafting course and look forward to welcoming my third class this spring.



RON DANIELS | *YLD Immediate Past President*

My favorite memory was Brittany Browning pushing me into the pool at Annual Meeting and the immediate and supernatural transfer of power which occurred with the push.



JENA G. EMORY | *YLD Newsletter Co-Editor*

One of my favorite memories from the past year is when I traveled to India to attend a friend's wedding. During my visit, I saw the Taj Mahal and played Holi (wet and dry). The best part, however, was seeing my friend and experiencing her culture with her.



SIENA BERRIOS GADDY | *YLD Newsletter Co-Editor*

My husband and I welcomed our first child this November. But, attending the Tropical CLE in Puerto Rico is a close second!

JUDGING PANEL VOLUNTEERS NEEDED

Judging Panel volunteers are needed for the 2024 Georgia High School Mock Trial regional, district and state finals competitions!

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We can get farther together than alone. It is a good reminder not to blame others for mistakes or missed cues, but if we work together toward the common goal, then we can all be successful.

creek at the bottom of the mountain. In my everyday life, I do not regularly run through mud, but in this instance, it was just part of our adventure.

2 Ask for Help

We had to ask for help—many times—throughout the adventure. We had to rely on one another to make it through rocky terrain and slippery surfaces. In one harrowing moment, my hiking shoe slipped on a wet rock, which would have sent me tumbling backwards. Luckily, a fellow hiker in the group was able to catch me before I dropped. I learned that we need one another to not only enjoy the hike, but to safely return to the starting point. We had to show patience toward one another and wait for each person to take their own journey down the mountain. We cheered on one another for successfully making it down the muddy terrain—which may have involved literally sliding down a mountain to safely get to the bottom.

All of these tips are ultimately life lessons for our YLD leaders. We need to work together to execute the mission of the YLD to better reach and serve our members. It takes a commitment to embark on Bar service by sacrificing time with family and work. We can get farther together than alone. It is a good reminder not to blame others for mistakes or missed cues, but if we work together toward the common goal, then we can all be successful. The YLD offers a variety of events and programs to offer something for all of our members around the state. The endeavor takes a collaborative effort of all of the YLD's officers, directors and committee co-chairs. ●



Amicalola Falls, Dawsonville, Georgia

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Prepare and Give Thanks—2023



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DAMON E. ELMORE

Executive Director
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For the third year in a row, I am using this space to provide a general update of our work as we approach the midpoint of our Bar year, and as we bring the calendar year to a close.

It may sound like a broken record or, adjusted for the times, repeating the same playlist on shuffle, but our work and our focus always remains on improving the quality of legal services in the state and regulating lawyers through the work of our Office of the General Counsel. This year, we have been keeping focused on member value, improving service delivery and program content with many of our offerings, and making progress on our long-term projects such as maintenance of the Bar Center and effective use of our fiscal resources.

I am amazed at the work of our staff in accomplishing these goals and I am grateful this holiday season for them. Some have accepted new and additional priorities, some are making improvements to established processes, all are making things better. Likewise, I am always impressed with the commitment our volunteer leaders make. Whether they are part of the leadership team, or on our boards, in their roles on committees, in our sections, or in any other capacity, all of those contributions are a big deal. Their work takes time, energy and pride in the mission. All of them make our work better. I am also incredibly grateful for our work and partnership with the members of the Supreme Court of Georgia, and particularly our liaisons. Their contributions make our work—in many ways an extension of their work—better and we are grateful.

Without similar distractions or outside interruptions as in years past, we have been keenly focused on improvements and excellence. Consistent with the priorities outlined in President Tony DelCampo's agenda at the Annual Meeting, I can't wait to see how a refreshed website will serve our members and support their work. Our team in communications is pushing that project forward by spending the time (lots of time) engaging with key stakeholders and hearing their feedback, meeting established markers and milestones and incorporating changes you have shared with us over the years. That is not an easy or fast process, but I can't wait to see what the result will be and am grateful to them now for the work.

We remain committed to analyzing the way we deliver our services with a focus on efficiency and strategic planning. We are making incremental and necessary improvements to our facilities. Our Conference Center is revitalized and adaptive in many of its capabilities. We have been focused on security and

freshness in our parking deck, especially as we see a strong rebound in access and use. We earned another flawless audit of our financials. We are close to attracting partners as tenants in the building. We are always working with the needs of our members top of mind. We are!

To no one's surprise, I have met some good Georgia lawyers over the past few months. Met them in places like Ware and Pierce counties. I met them in Athens, Savannah, Montgomery, Alabama, and Lexington, Kentucky. I met them at our institutes, the YLD's Leadership Academy and at events sponsored by local and voluntary bar associations. It is arguably the best part of my job. It was nice to meet them, and I am grateful to them, and to all of you, for your work in helping your clients, protecting liberties and constitutional rights, resolving disputes and making Georgia better.

We are not just ready for 2024, we are adequately equipped and out front. But we still thank you and wish you well. We hope you have used this season to take some meaningful time to spend with those that are important to you and your peace, and that you have soaked in the soul of the season so that you are indisputably full. As we always invite, never hesitate to let us know how we can help you and your work. DEE ●







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Introducing the Superior and State Court Appellate Practice Act

The Judicial Council of Georgia's Superior and State Court Appellate Practice Act modernizes more than a century of Georgia law to increase "access to justice through the greater resolution of appeals" to superior and state courts.

BY HON. CHRISTOPHER J. MCFADDEN, HON. GARY E. JACKSON AND DARRON J. ENNS

The purpose of the new Superior and State Court Appellate Practice Act (the new Act) is to bring appellate practice before our superior courts into the mid-20th century. More specifically, that purpose is to make superior court appellate practice more like practice under the Civil Practice Act and the Appellate Practice Act—which were adopted in the 1960s. The new Act covers appellate practice in the state courts only because they are the other trial courts with appellate jurisdiction; the new Act is not intended to materially alter appellate practice in state courts. The central innovation of the new Act is the petition for review: a simple one- or two-page document that will now be sufficient to invoke the appellate jurisdiction of the superior and state courts.

In 1966 the General Assembly enacted the Civil Practice Act to "secure the just, speedy, and inexpensive determination of every action."[1] Its seminal innovation was to replace a confusing array of highly technical writs from which a plaintiff had to select at peril with "one form of action, to be known as 'civil action.'"[2]

The preceding year the General Assembly had enacted the Appellate Practice Act, which it directed, "shall be liberally construed so as to bring about a decision on the merits of every case appealed and to avoid dismissal of any case or refusal to consider

any points raised therein, except as may be specifically referred to in this article."[3] Similar to the Civil Practice Act, it replaced an array of technical writs of error with a notice of appeal, which is generally a one-page document.[4]

But the General Assembly made no such improvements to *appellate* practice in the superior courts at that time. Invoking the appellate jurisdiction of the superior courts still required an appellant to select at peril from among an array of highly technical writs and other procedures. The process for appealing the decisions of lower courts (e.g., smaller county probate courts, magistrate courts and municipal courts) or non-court lower adjudicative bodies (e.g., zoning, tax or personnel boards) simply did not work.

Particularly troublesome was the writ of certiorari process, which dates back to at least 1863—horse and buggy days. It was so archaic and complicated that very few modern judges and legal practitioners could successfully navigate it.

So, what was wrong with the writ of certiorari process? For starters, it was a huge waste of time. The first step was filing a writ of certiorari petition with a clerk of superior court. However, a superior court judge also needed to "sanction" the petition. Most who attempted to navigate the old process neglected the additional "sanctioning" step, which resulted in their first procedural error. To our knowledge, this was the only type of "complaint" that was regularly required to be reviewed and approved by a superior court judge before it could even be served on an "opposite party." Most superior court judges rarely, if ever, saw a certiorari petition, and often such cases landed on the desk of a similarly inexperienced law clerk. Much time was expended on an inefficient "sanctioning" learning curve. And if the petition ended up being defective because the appellant missed the "sanctioning" step, then that issue would later arise in a motion to dismiss on procedural grounds with no decision on the merits.

Particularly troublesome was the writ of certiorari process, which dates back to at least 1863—horse and buggy days. It was so archaic and complicated that very few modern judges and legal practitioners could successfully navigate it.

Second, there was the issue of service of process. Unlike with any other type of appeal, an appellant had to serve the certiorari petition on the judge who entered the order that was being appealed. Again, to our knowledge, this was the only appeal that had to be served this way. Mail (both postal and email) were simply not an option. Service was usually made by a Peace Officer Standards and Training certified officer, causing him or her to become temporarily unavailable to protect and serve the public. Given widespread law enforcement staff shortages, this was not an efficient use of scarce public safety resources.

Third, and perhaps most importantly, the certiorari review process was so complicated that most petitions for a writ of certiorari were dismissed on a technicality. Wait six days to serve the judge? Appeal dismissed! Leave the papers with the judge's staff at the courthouse? Appeal dismissed! Fail to dot an "i" or cross a "t?" Appeal dismissed! The result of all these procedural barriers was that a case was rarely, if ever, decided on the merits. The litigants never got their "full" day in court, and judges never received any feedback. Judges never learned if they were doing it right or wrong and assumed their rulings were correct because their decisions were almost always affirmed. This is not the way Georgia's judicial system should function; we can and should do better.

Fourth, judges were tired of getting sued simply for doing their job. Judges were personally listed on the petition for writ of certiorari as a defendant. Such cases appeared on a judge-defendant's personal credit report. For example,

when Hon. Gary E. Jackson went to refinance the mortgage on his home, he had to get a letter from his city attorney explaining that he was not personally liable for damages in certain cases under certiorari review.

Lastly, the use of the very word "certiorari" was confusing not only to the Bench and Bar, but also to the public. When most people hear the word "certiorari," they think of an appeal in the context of the U.S. Supreme Court or a petition to the Supreme Court of Georgia—not an appeal of a traffic ticket, a tax bill or a dispossessory case to a superior or state court. Confusion reigned.

So, how did the "petition for review" idea come about? Drafting the Act began with an idea from Hon. Gary E. Jackson of the Municipal Court of Atlanta after he got tired of being sued. He asked the Legislative Committee of the Council of Municipal Court Judges to create a subcommittee to study the issue. After the committee completed this study, the Council approved its recommendations and asked the Judicial Council of Georgia's Standing Committee on Legislation to examine the issue. The Standing Committee appointed judges representing all classes of court to the Certiorari Review Subcommittee on July 21, 2016, which was chaired by Presiding Judge Christopher J. McFadden of the Court of Appeals of Georgia, to review the now repealed certiorari review procedure.[5] Assistant General Counsel Darron J. Enns of the Administrative Office of the Courts (staff to the Judicial Council of Georgia) wrote draft legislation under the direction of the Certiorari Review Subcommittee.[6]

After the Judicial Council approved a final draft, Rep. Rob Leverett (R-Elberton) in the Georgia House of Representatives introduced HB 916 (2022). The House and Senate unanimously approved the bill, and Gov. Kemp signed it into law on May 13, 2022.[7] HB 186 followed in 2023.[8] Also introduced by Leverett, HB 186 provided for technical refinements and improvements to certain petition for review procedural Code sections and further conforming amendments to align additional Code sections with HB 916 (2022). If future refinements are needed, then additional amendments may follow in 2024.

The Superior and State Court Appellate Practice Act was effective on July 1, 2023, and is codified in new O.C.G.A. §§ 5-3-1 to 5-3-21.[9] Its primary innovation is to provide for a simple procedure—a petition for review—that will suffice to invoke the appellate jurisdiction of the superior and state courts. Because of the wide range of lower courts and quasi-judicial entities over which the superior courts have appellate jurisdiction, the petition for review is to be filed with the clerk of the superior or state courts. The Superior and State Court Appellate Practice Act borrows heavily from the Civil Practice Act and the Appellate Practice Act. In light of that wide range of lower courts and quasi-judicial entities, the new Act relies heavily on the discretion and judgment of the superior and state courts to fill in details. It takes to heart the adage, "If it ain't broke, don't fix it."

There are a few other "fixes" in the Act, which is summarized below, but most of the bulk of this rather lengthy legislation, and a great deal of the work that has gone into it, reflects our attempt to dovetail it with the many statutes that touch on the appellate jurisdiction of the superior and state courts.

Summary of the New Superior and State Court Appellate Practice Act

Under previous law, the notice of appeal[10] and writ of certiorari[11] proceedings were separate and distinct forms of appeal to superior and state courts. The new Superior and State Court Appellate Practice Act repealed Chapters 3 and 4 of Title 5 to establish a "single, modern, and uniform" procedure called a "petition for review" to replace the previous methods of appealing a "final judgment" rendered by a lower judicatory to a superior or state court.[12] To follow is a summary of these new Code sections.

General Purpose of the New Act and Pleading Requirements

O.C.G.A. § 5-3-2 sets forth the purpose and intent of the new Act and the specific underlying issue that the Georgia General Assembly seeks to address: "that many appeals from a lower judicatory to a superior or state court result in dismissal on complex procedural grounds and not a decision on the merits."[13] The General Assembly intended to establish a "single, modern, and uniform procedure called a 'petition for review'" to replace the previous methods of appealing a decision rendered by a lower judicatory to a superior or state court and increase "access to justice through the greater resolution of appeals on the basis of substantive issues rather than on complex procedural grounds."[14] However, the General Assembly specifically did not intend to change or expand the current "limited appellate jurisdiction of state courts."[15] To achieve that goal, the General Assembly instructed the Courts to construe the new Act in such a way as to "render decisions based on the merits" instead of dismissing an appeal on procedural grounds "unless such dismissal or refusal is expressly required by statute," considering the "substance, merit, and function" of any document seeking to appeal a decision from a lower judicatory to a superior or state court, however styled, formed or titled, so that using the wrong document name is not a fatal procedural error that results in dismissal.[16]

New O.C.G.A. § 5-3-3 defines the terms used in the new petition for review procedure. The terms "lower judicatory" and "decision" are broadly defined to reflect that reviewing superior and state courts have appellate jurisdiction over the "judicial" and "quasi-judicial" decisions of a wide variety of state and local government officials and bodies. It also clearly defines the term "respondent," which replaced and eliminated the problematic term "opposite party." Correctly identifying the "opposite party" and "respondent" was a source of confusion under the former procedures.

Superior and state courts have appellate jurisdiction over a "final judgment of a lower judicatory," with some exceptions.[17] These exceptions to superior and state court appellate jurisdiction are identical to those under previous law but are now in a convenient list to prevent a procedural error.[18] The provisions of the new Act "preempt any local law or any locally enacted law, ordinance, regulation, rule,

or procedure in conflict with [O.C.G.A. Chapter 3 of Title 5] governing an appeal of a final judgment to a reviewing court."[19] Consistent with the purpose of streamlining the appellate process, this subsection addresses the issue of local governments placing additional or conflicting procedural requirements on appeals to superior or state court, which can pile on procedural barriers to a decision on the merits.

The default standard of review in a petition for review is a limited review analogous to a review in an appellate court or under the former writ of certiorari procedure.[20] The statute provides for a *de novo* proceeding only "if a *de novo* proceeding is specified by law."[21] If a *de novo* proceeding is required, the review is without a jury unless a jury is demanded and authorized by law. A demand for a jury trial must be "filed in the reviewing court within 30 days after the filing of the petition for review."[22] The procedural mechanism for invoking the appellate jurisdiction of a superior or state court is the filing of a petition for review with the clerk of a reviewing superior or state court, which may be filed without the consent of the lower judicatory.[23]

Subsection (a) of O.C.G.A. § 5-3-7 permits the superior or state court appellate practices not covered in O.C.G.A. Chapter 3 of Title 5 to be governed by superior or state court rule or order, so long as they do not conflict with the new Act. Subsections (b)-(h) of O.C.G.A. § 5-3-7 establish general procedures for a petition for review, including that a petitioner must file a petition for review within 30 days after the date of the final judgment appealed. Subsection (d) prohibits a petitioner from naming the official who made the decision under review as a party to the case appealed simply because he or she decided the case in the lower judicatory. This eliminates the former problem (as experienced by Jackson) of judges, officials and members of government boards becoming parties to lawsuits simply because they rendered the decision appealed. Instead, subsection (c) specifies that the parties in the petition for review are the same as the parties in the lower judicatory. Subsection (e) provides a petitioner with a basic format for a petition for review.[24] A petitioner may, however, correct errors made on a petition for review.[25]

A petition for review must be served on all parties *and* the lower judicatory within five days after filing the petition for review in the reviewing superior or state court.[26] New O.C.G.A. § 5-3-10 establishes the procedures and requirements for service of process in a petition for review, providing that "[s]ervice of any document shall be made in person, by mail or electronically if consent to electronic service is given."[27]

A respondent must file his or her response "within 30 days after being served with a copy of the petition for review," which must include "any counterclaim, cross-appeal, defense, or third-party claim" in their response (but only if it is a *de novo* proceeding).[28] A petitioner must then file a reply (if any) to the respondent "within 30 days after being served with a copy of the respondent's response," which must likewise be served on the court and all parties and include any counterclaim, etc. (but only if the review is a *de novo* proceeding).[29] Subsection (d) specifies when and under what conditions a petition for review, response or reply may be amended, including when leave of court is and is not required.[30] Of course, a petitioner must file a petition for review in a superior or state court with proper venue and jurisdiction,[31] and O.C.G.A. *§* 5-3-13(b) facilitates the transfer of a petition for review filed in the wrong court to the correct superior or state court.

The Court's Power to Manage the Appellate Process

The new Act provides the reviewing superior or state court with tools to manage proceedings in a petition for review, including the authority to issue "such orders and writs as may be necessary to aid in its jurisdiction and manage court proceedings."[32] The first part of O.C.G.A. § 5-3-9(d) is an updated restatement of former O.C.G.A. § 5-3-4 and clarifies what will happen if one party wants to appeal and another party on the same side of the case refuses to appeal. The second part of O.C.G.A. § 5-3-9(d) is an updated restatement of former O.C.G.A. § 5-3-5 to clarify how damages are to be awarded if a party refuses or fails to appeal. O.C.G.A. § 5-3-9(e) preserves former O.C.G.A. § 5-3-40(b), which specifies that the monetary limitations in paragraph (5) of O.C.G.A. § 15-10-2 are not applicable in a petition for review.

If a party seeks a deadline extension, he or she must do so before the expiration of the filing period currently in effect.[33] The new Act permits only one filing extension of up to 30 days for a petition for review but permits additional deadline extensions for other documents "as may be necessary to permit a just and expeditious review."[34] The clerk of the reviewing superior or state court must promptly serve each party and the clerk of the lower judicatory with a copy of any extension granted and the motion requesting such extension.[35]

The grounds for which a reviewing superior or state court may dismiss a petition for review are limited: untimeliness; lack of jurisdiction; mootness; lack of a justiciable controversy; failure of a petitioner to prosecute; and failure of a petitioner to comply with a rule or a court order.[36] However, a reviewing superior or state court must give a petitioner an opportunity to cure a defect in a petition for review, bond or affidavit of indigence prior to dismissing the petition for review.[37] Similarly, a reviewing superior or state court is required to permit a lower judicatory to address its failure to transmit any document needed to conduct its review. A party has an opportunity to address his or her failure to perfect service on another party prior to a reviewing superior or state court dismissing the appeal for failure to perfect service if the party can show due diligence (note the use of the word "immediately").[38]

The Record on Appeal and Payment of Costs

New O.C.G.A. § 5-3-14 is modeled after current O.C.G.A. § 5-6-41 (which governs the creation of a transcript of evidence and proceedings for use by the

Court of Appeals Georgia or Supreme Court of Georgia) and would similarly provide for the creation of a record in the lower judicatory for use by a reviewing superior or state court in a petition for review. It should be noted that nothing in new O.C.G.A. § 5-3-14 compels a lower judicatory to create a record. The creation of the record is generally the burden of the requesting party. "As a matter of law, whether or not a transcript is to be prepared in a misdemeanor case initially lies within the sound discretion of the trial court. Absent a demand for a transcript prepared at the expense of the requesting party, the reporting of such a case is not demanded by law."[39]

The clerk of the lower judicatory is required to transmit a copy of the record (if any) in the lower judicatory to the reviewing superior or state court within 30 days after being served with a petition for review,[40] and the petitioner is required to hold the clerk in the lower judicatory accountable for transmitting the record to the reviewing superior or state court in the time required.[41] The clerk of the lower judicatory is to include a notification with the record transmitted to the reviewing superior or state court if the petitioner is currently confined to jail or otherwise incarcerated, if "known or reasonably believed to be the case."[42] Finally, the clerk is required to notify the judge (or member, etc., for a non-court entity) of the lower judicatory if no record is currently available for review so that appropriate action may be taken.[43]

The new Act does not require all costs in the lower judicatory to be paid to *file* a petition for review in superior or state court; however, such costs must be paid within 30 days of being notified of such costs (or, alternatively, the filing of an affidavit of indigence) before a petition for review may be *heard* in superior or state court.[44] A reviewing superior or state court may dismiss a petition for review for failure to pay the costs in the lower judicatory, but only if the petitioner has been directed to do so and fails to comply.[45] An "executor, administrator of an estate, or other trustee" is exempted from the payment of costs requirement,[46] and is likewise exempt from "giving of a bond and security as provided in [new] Code Section 5-3-17 [(c) (1)]."[47] If a petitioner does not file an affidavit of indigence, then proof of payment of costs is accomplished by filing a "certificate of payment of costs from the lower judicatory" in the reviewing court.[48]

Bond and Security

O.C.G.A. § 5-3-17(a) was adapted from existing O.C.G.A. § 5-3-22(b), generally preserving former O.C.G.A. § 5-4-19 and providing that the filing of a petition for review "shall act as supersedeas" and "suspend but not vacate a final judgment of a lower judicatory." "As a general rule, in civil actions other than injunctions, a trial court, upon the filing of a [petition for review], loses jurisdiction to modify or enforce a judgment which is the subject of the appeal during the period of supersedeas."[49] In a criminal case, "[t]he mere filing of a [petition for review] ... does not divest the trial court of complete jurisdiction. ... [T]he filing of a [petition for review] merely deprives the trial court of its 'power to execute the sentence.'"[50] O.C.G.A. § 5-3-17(b) does not require a supersedeas bond to be given in a petition for review unless required by the reviewing superior or state court under O.C.G.A. § 5-3-17(c). A supersedeas will cease if "a petitioner fails to give a bond when a bond is required" by the reviewing court (unless the petitioner files an affidavit of indigence).[51] A supersedeas bond is limited to "the total amount of damages, fines, fees, penalties, and surcharges imposed by the lower judicatory in the case under

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review."[52] While O.C.G.A. § 5-3-17(f) establishes general requirements for bonds given in a petition for review, O.C.G.A. §§ 5-3-17(i)-(m) generally preserve various bond provisions from former O.C.G.A. §§ 5-3-6; 5-3-23; 5-3-25; and 5-4-10.

Procedures After Review, Appeal to Appellate Courts and Dismissal

The new Act provides instructions regarding what the reviewing superior or state court must do after a petition for review has been reviewed.[53] The clerk of the reviewing superior or state court must serve a copy of the court's decision regarding a petition for review on the clerk of the lower judicatory and all parties within five days after the date the decision was rendered.[54] The clerk of the lower judicatory is then required to notify the judge or member of the lower judicatory who decided the case below of the reviewing superior or state court's decision. The decision of the reviewing superior or state court in a petition for review is reviewable by the appropriate appellate court (i.e., the Court of Appeals of Georgia or the Supreme Court of Georgia), as prescribed by law.[55]

The first sentence of O.C.G.A. § 5-3-19(a) restates a portion of former O.C.G.A. § 5-3-7, which provides that if an appeal is dismissed, then "the rights of all parties shall be the same as if no appeal had been filed." The second sentence of subsection (a) and paragraphs (1)-(3) clarify how the first sentence in subsection (a) is to be applied: When a petition for review is dismissed or withdrawn, the underlying case is not dismissed. The final judgment of the lower judicatory is not vacated, but rather is reinstated as if the petition for review had never been filed.[56] O.C.G.A. § 5-3-19(b) then clarifies that subsection (a) would apply to all cases, regardless of the standard of review applied.

The new Act provides for "[r]easonable and necessary attorney's fees and expenses of litigation" damages against a petitioner or respondent if an action or defense was frivolous, as provided in O.C.G.A. § 9-15-14.[57] The new Act also provides the reviewing superior or state court guidance regarding ordering the recovery of costs by the petitioner or the respondent, depending on who prevails in a petition for review.[58]

Additional Resources Available

To help the bench, the Bar and the public prepare for the new petition for review procedure, the Judicial Council of Georgia/Administrative Office of the Courts has produced a training video, which is approved for 1 hour of CLE and posted at jcaoc.georgiacourts.gov/hb916. This video has also been provided to the training councils of all classes of court, and judges are advised to contact their applicable training council for CJE credit information. The following resources are also available under Quick Links at jcaoc.georgiacourts.gov/hb916: Bench Card for Judges, Bench Card for Clerks, Citizens Guide, Model Petition for Review and Model Certificate of Payment of Costs. Please email HB916@georgiacourts.gov if you have questions, amendment recommendations or other concerns. ●



Hon. Christopher J. McFadden has served on the Court of Appeals of Georgia since 2011. He is lead author of "McFadden, Brewer, & Sheppard, Georgia Appellate Practice" (West).



Hon. Gary E. Jackson became a full-time judge in the City Court of Atlanta in 2000 and on June 30, 2005, was appointed by Mayor Shirley Franklin as a judge in the Municipal Court of Atlanta. Jackson is now serving in his seventh term as a judge of the Municipal Court.



Darron J. Enns is a Georgia-licensed attorney and currently serves as assistant general counsel for the Judicial Council's Administrative Office of the Courts, where he has been on staff since January 2019. He previously served as a magistrate in Norfolk, Portsmouth and Virginia Beach, Virginia; a legislative policy analyst for the chief executive officer of Los Angeles County; a legislative assistant to a member of Congress in Washington, D.C.; and on active and reserve duty as military police in the U.S. Marine Corps.

Endnotes

1. Official Code of Georgia Annotated (O.C.G.A.) § 9-11-1 (1966).
2. O.C.G.A. § 9-11-2 (1966).
3. O.C.G.A. § 5-6-30 (2023).
4. *See* O.C.G.A. § 5-6-37 (2023).
5. Set forth in former O.C.G.A. § 5-4-1, et seq.
6. The subcommittee benefited from the participation of representatives from all classes of court as well as from the Office of State Administrative Hearings. Of particular value was the contribution of Hon. Michael H. Barker of the Chatham County Magistrate Court, who helped align the new Act with the procedures and responsibilities of that hard-working class of court. Also of particular value was the contribution of attorney Leighton Moore, who participated in an earlier attempt to reform the former law through the Appellate Practice Section of the State Bar of Georgia and who was instrumental in devising the new Act's central idea: the petition for review.

   The implementing structure of the new Act is built on the work of the late Professor Edward C. Brewer of the Salmon P. Chase College of Law at Northern Kentucky University and earlier of the Atlanta office of Nelson Mullins. As one of the original authors of what is now "McFadden, Brewer, and Sheppard's Georgia Appellate Practice," he was tasked with setting out the appellate jurisdiction of Georgia's state and superior courts. What he produced was a complete catalogue of every Georgia government entity—at every level and in every branch—that exercises any sort of judicial authority, as well as the procedures for appealing their decisions. Much of the information he assembled was not to be found in codified statutes or published appellate decisions.

   The authors would also like to express their sincere appreciation to the following individuals for their invaluable contributions: Sen. John F. Kennedy, Sen. Brian Strickland, Rep. Chuck Efstration, Rep. Rob Leverett, former Chief Justice David E. Nahmias, Hon. Bill Hamrick, Hon. Carla E. Brown, Hon. Gary W. Washington, Hon. Asha F. Jackson, Hon. Lynwood D. Jordan, Tracy Mason, Ceryl Karounos and James Rodatus.

7. 2022 Ga. Laws 875.
8. 2023 Ga. Laws 352.
9. 2022 Ga. Laws 875.
10. Former O.C.G.A. § 5-3-1, et seq.
11. Former O.C.G.A. § 5-4-1, et seq.
12. As provided in new O.C.G.A. §§ 5-3-1 to 5-3-21 (2023).
13. New O.C.G.A. § 5-3-2(a) (2023).
14. New O.C.G.A. § 5-3-2(b)(1)-(2) (2023).
15. New O.C.G.A. § 5-3-2(b)(3) (2023).
16. New O.C.G.A. § 5-3-2(c) (2023).
17. As defined in paragraphs (4) to (6) of new O.C.G.A. § 5-3-3(a) (2023) and provided in new O.C.G.A. § 5-3-4(a).
18. New O.C.G.A. § 5-3-4(b) (2023).
19. New O.C.G.A. § 5-3-4(c) (2023).
20. New O.C.G.A. § 5-3-5(a) (2023).
21. New O.C.G.A. *§ 5-3-5*(b) (2023).
22. New O.C.G.A. § 5-3-5(c) (2023), which is consistent with former O.C.G.A. § 5-3-30(a).
23. New O.C.G.A. § 5-3-6 (2023).
24. A Model Petition for Review is available under Quick Links at jcaoc.georgiacourts.gov/hb916.
25. New O.C.G.A. § 5-3-7(f) (2023).
26. New O.C.G.A. §§ 5-3-7 (g), (h) (2023).
27. Under new O.C.G.A. § 5-3-10(b), electronic service is as provided in O.C.G.A. § 9-11-5(f) (2022).
28. New O.C.G.A. § 5-3-8(a) (2023).
29. New O.C.G.A. §§ 5-3-8(c), (e) (2023).
30. New O.C.G.A. § 5-3-8(d) (2023).
31. New O.C.G.A. *§* 5-3-13(a) (2023).
32. *See generally* new O.C.G.A. § 5-3-9 (a)-(c) (2023).
33. New O.C.G.A. § 5-3-11(a) (2023).
34. New O.C.G.A. § 5-3-11(b) (2023).
35. New O.C.G.A. § 5-3-11(c) (2023).
36. New O.C.G.A. §§ 5-3-12(a)(1) – (6) (2023).
37. New O.C.G.A. §§ 5-3-12(b), (c) (2023).
38. New O.C.G.A. § 5-3-12(d) (2023).
39. Bagley v. State, 298 Ga. App. 513, 514, 680 S.E.2d 565, 567 (2009).
40. New O.C.G.A. § 5-3-15(a) (2023).
41. New O.C.G.A. § 5-3-15(d) (2023).
42. New O.C.G.A. § 5-3-15(b) (2023).
43. New O.C.G.A. § 5-3-15(c) (2023).
44. New O.C.G.A. §§ 5-3-16(a), (b) (2023).
45. New O.C.G.A. § 5-3-16(c) (2023).
46. As was formerly the case under repealed O.C.G.A. § 5-3-24.
47. New O.C.G.A. § 5-3-16(d) (2023).
48. As specified in new O.C.G.A. § 5-3-16(e) (2023). A Model Certificate of Payment of Costs is available under Quick Links at jcaoc.georgiacourts.gov/hb916.
49. Davis v. Harpagon Co., LLC, 281 Ga. 250, 253, 637 S.E.2d 1, 4 (2006).
50. Strickland v. State, 258 Ga. 764, 765, 373 S.E.2d 736, 737 (1988).
51. New O.C.G.A. § 5-3-17(d) (2023).
52. New O.C.G.A. § 5-3-17(e) (2023).
53. New O.C.G.A. § 5-3-18(a) (2023).
54. New O.C.G.A. § 5-3-18(b) (2023).
55. New O.C.G.A. § 5-3-18(c) (2023).
56. The effect of subsection (a) is to overrule the majority opinion in Long v. Greenwood Homes, Inc., 285 Ga. 560, 679 S.E.2d 712 (2009).
57. New O.C.G.A. § 5-3-20 (2023).
58. New O.C.G.A. § 5-3-21 (2023).



Fundamental Ethics in Law and Society

The basic meaning of ethics is doing the right thing, or as Mark Twain once said, "There is nothing wrong with doing the right thing."

BY PATRICK G. LONGHI



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Over the course of three decades of lectures on ethics at continuing legal education seminars, I postulated that ethics had brought confidence, stability and respect to the bar, the justice system and society at large. Ethics was also used to strengthen other institutions, but today, America is a society in crisis—adrift from its moorings. I further submit that today our institutions are like a ship listing on its side needing to be righted before it sinks. I provided commentary in my lectures about this for years that the time was coming.

This article will attempt to provide a synthesis and context as to what has been happening with the life of the law and in our society through the lens of ethics. Imagine, if you would, a conductor of an orchestra bringing wind, string, brass and percussion instruments in perfect harmony with each other.

Ethics and Morality in Law and Society: Origins and Meaning

Although political theorists predating our Founding Fathers such as Frederick

Bastiat and Emmerich de Vattel have written on ethics, it is a simple truth: the basic meaning of ethics is doing the right thing, or as Mark Twain once said, "There is nothing wrong with doing the right thing." Ethics is at the intersection of what's moral and what's legal, thus, it can be relative and evolve with the times. Bastiat, a French political libertarian and economist (1801-1850), wrote about property and plunder, the latter gotten at the expense of others and if easier than work, where morality and religion won't stop it, laws should. "When law and morality contradict each other, the citizen has the cruel alternative of either losing his moral sense or losing his respect for the law. ... There is in all of us a strong disposition to believe that anything lawful is also legitimate."[1]

Historically, there has been a symbiotic relationship between government, law, ethics and religion. One only has to look at Europe and the relationships between the popes who governed the faithful by penalty from the divine and those who governed nation-states by penalty from the law, for examples. Emperors of the eastern half of the Roman Empire (the Byzantine Empire) by the time of the sixth century recognized Christianity as the state religion enabling the church to also retain political and legal power. Emperor Justinian I (527-565 A.D.) created the codification of laws and the opinions of great Roman jurists known as the Justinian Code and constructed several important cathedrals.[2]

In Florence, Italy, during the Renaissance, the Medici family wielded great political power, which included Cosmo II Vecchio (1389-1464 A.D.), a wealthy banker to the popes and first in line as de facto ruler; Leo X (1475-1521 A.D.), who became the first Medici pope extending the family power base to include Rome and the papal states; and Catherine de' Medici (1519-1589 A.D.), who was married by her great uncle Pope Clement VII to Henry of Valois, who later became Henry II of France. King Henry VIII of England broke from the popes and Roman Catholic Church making the Church of England separate to this day. England's dual system of ecclesiastical courts and courts of law were merged in the American judicial system as one court of law and equity.

Foundations of Law and Ethics in the European Union

Today's European Union is a political, economic and social union of 28 member-states—and the Council of Europe, a more loosely bound association of 47 member-states adhering to the European Convention of Human Rights and Fundamental Freedoms and promoting democracy, respect for human rights and the rule of law.[3]

Among the initiatives undertaken by the Council of Europe in the area of promotion of ethics in government was the adoption of the Twenty Guiding Principles for the Fight Against Corruption in 1994. The principles *inter alia* call for states to take effective measures for the prevention of corruption and, thus, raise public awareness and promote ethical behavior, coordinate criminalization of national and international corruption, ensure those in charge of the prevention, investigation, prosecution and adjudication of corruption offenses have independence and autonomy appropriate to their functions and free from improper influence for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations.

Moreover, the principles enjoin states to provide appropriate measures for the seizure and deprivation of the proceeds of corruption offenses, appropriate measures to prevent legal persons being used to shield corruption offenses, limit immunity from investigation, prosecution or adjudication of corruption offenses to the degree necessary in a democratic society. They promote the specialization of persons or bodies in charge of fighting corruption, providing them with appropriate means and training to perform their tasks. They also require states to ensure that fiscal legislation and authorities in charge of implementing it contribute to combating corruption in an effective and coordinated manner, that the organization, functioning and decision-making processes of public administrations take into account the need to combat corruption and the rules relating to the rights and duties of public officials include requirements of the fight against corruption and provide for appropriate and effective disciplinary measures.

Foundation and Building Blocks of Ethics in American Society

As we see in our society in crisis, law is only one part of what makes society work. Ethics today is more important than ever before—seeing how porous our Constitution and national and state laws can be when morality, virtue, ideals, societal norms, selfless devotion to mankind and common decency are forsaken for propriety interests and the darker side of humanity. Our Founding Fathers had all that in mind and looked to some of the great philosophers and theorists of the past, like Bastiat and de Vattel.

In our free society, we are governed by democratic institutions, the rule of law and the truth. The truth is the foundation of any great civilization: Verus, Veredictum, Veredicto ... Veritas. Veritas was the Roman goddess of truth, portrayed as a young virginal woman symbolizing purity. What were the ancient Romans telling us? There is nothing better than

telling the truth. To the Romans, truthfulness was a virtue—what any good Roman should possess. You recall Roman governor Pontius Pilate openly pondering the question, "What is truth?" Veredicto is the foundation of our justice system being a search for truth. Thus, a "verdict" is rendered after a trial—not two verdicts but one verdict as there is only one truth. In American civil procedure, there is the "law of the case" concept—a decision that is ruled upon by the highest court of that sovereign is the law of that case, i.e., the truth as to that case.

Oaths matter like words matter—in military, legal, government and to become a lawyer. The oaths are made to uphold the Constitution and our democracy, not to any one leader. During trials or hearings, we have witnesses swear an oath on a Bible, which denotes the seriousness and gravity of that testimony.

However, in the sensational murder trial of O.J. Simpson in the 1990s, the truth was also shown to be colored by perception. Americans believed that the verdict was right or wrong based upon their experiences in American life, to wit, whether or not they were African American.

The legal profession also has concomitant duties to the other institutions to keep them strong, as all great civilizations have had one thing in common: they all ended. As today's Romans look to what remains of their ancestors' glory days, so too will our descendants in the future look to the custodians of today's democratic institutions, which will be their legacy. Thus, lawyers need to ensure that the greatness of society's institutions, their security and the investment in the promise of every nation's youth be sound—not just for the present, but also for posterity.

The Legal Profession and Law Schools' Response to Watergate

"The only thing necessary for the triumph of evil is for good men to do nothing." —Irish-British statesman Edmund Burke

The year 2022 was the 50th anniversary of the Watergate break-in with early cracks in the foundation of our institutions becoming apparent when U.S. District Court Judge John Sirica received a note from a defendant indicating the break-in of the Democratic National Committee headquarters was far more sinister than a third-rate burglary. Law schools and the profession took notice that many of the players were lawyers like original dirty trickster Donald Segretti, who served four and a half months in prison, and U.S. Attorney General John Mitchell, who served two and a half years in prison for their role in the Watergate break-in and cover up.

The legal profession recognized having the duty and the responsibility in its position of influence in society to provide leadership and sound the charge to reverse our course as a people. It was reawakened to its role being uniquely qualified for this task as the guardians of our constitutional principles who hold the keys to access the courts for public redress.

Today there are a separate ethics bar admission exam along with a broader understanding of ethics in law and society from strengthening and revising codes of professional responsibility with affirmative duties.[4]

This predecessor to current state codes of professional conduct called for public service: lawyers to serve as legislators and other public office holders as uniquely qualified to make significant contributions to the improvement of the legal system and "advancement of our legal system is of vital importance in maintaining the rule of law and in facilitating orderly changes." Hence, lawyers should serve society as elected officials over those not trained in the law.

Duties also exist to uphold the integrity of the legal profession, encourage respect for law and the courts, to avoid even the appearance of impropriety and conduct oneself with integrity in his or her personal and professional life. Lawyers have a common bond that they are all in this together as leaders of society to improve the law and societal institutions reflected in our understanding today. We need future lawyers to take the lead in improving the justice system and society at large.

Zealous Advocate Versus Hired Gun

Is the role of the lawyer in the justice system simply an extension of the ill will and emotional pathos the client holds toward the opposing party? The win-at-all-costs mentality prevalent in society wells up from the client base where the marketplace is generally determined either by the profit motive or fear of lawsuits. Unlike the world of business, the legal profession is an institution where, although profit may have its place, such monetary concerns are overridden by state codes of professional responsibility.

Public confidence in the system they serve erodes when the focus is one case with tactics devoid of any consideration of the ethical, financial or emotional carnage of all the parties versus a justice system where disputes resolve fairly and efficiently in a non-hostile manner.[5]

Fundamental Fairness and Playing by the Rules

Fundamental fairness is a theme that runs through our case law as well as the rules of the playground as to fair play. "What's fair is fair," our parents used to tell us. We grew up listening to our teachers, coaches and referees say, "play by the rules." "May the best man win" was the saying in the sandbox or fighting ring. Remember the referee holding up the arms of both the winner and the loser after a boxing match? Now, whether in the courtroom or society at large, if one side plays by the rules and the other doesn't, the rulebreaker not only can win unfairly, but erode confidence for others to participate in a fair system. Why have rules in civil society if people are allowed to

break them? Institutions exist to enforce the rule of law with consequences and to monitor themselves.

Respect for authority, law and institutions can coincide with right to protest, dissent and appeal to disagree without being disagreeable, extolling the end of political correctness with more freedom to say whatever's on your mind—but at what cost? Ushering in an era of mean spiritedness and insensitivity to our fellow Americans?

Ethics, Our American Values and the Moral Authority

The failed democracy that is Russia today still uses age-old tactics going back to the czars that might makes right as we see each day with the suffering and bloodshed in its 20th century war against Ukraine.

In "Iwo Jima: From Combat to Comrades," a 2015 PBS television documentary, the 70th anniversary continued reunions of honor for 20 years by Lt. Gen. Larry Snowden, then 94 years old, that commemorated both sides of combatants and was a testament to leadership, bravery, selflessness, valor and gritty determination. These are considered our American values.

One Japanese solider from the battle said he was captured and rescued by an American solider who he thanked for giving him a chance to go home and live a full life with a wife and three children. That Japanese veteran questioned whether in the reverse situation an American would have been left to die, saying the American military was unique in how its soldiers treated combatants. Conversely, the American mistreatment of Iraqi prisoners in the Abu Grabe prison should give us pause to consider if American has indeed gone astray in our moral compass, and how do we right ourselves again to regain trust in the world. Military might is not enough; the United States still needs to have the moral authority in whatever it does. Therefore, what makes a society great is not its power alone but its wisdom and restraint in knowing when and how to use it.

In recent years, my lectures discussed the fragility of our institutions and way of life as seen from the films about the Nazi concentration camps that were never finished with the American film focusing on documenting for history, while the British film using it as a warning that it can happen at any time, in any place, to any people. In another lecture over the years, I pondered that the one thing all great civilizations had in common was that they all ended.

Honesty, Class, Dignity, Respect and The Good Guys

Ben Franklin wrote a book about honesty being the best policy in attaining a successful career. It was a best seller in its time. That was his marketing plan. Lawyers should also consider a return to their original business model—having a solid reputation with the credibility, respect and class that goes with it. Being a class act. Today, an increasing lack of class in society exists. What is it? Perhaps it is like the definition of pornography: you know it when you see it.

Winning versus losing. Learning to win but also learning to lose. You learn just as important lessons losing as winning, like how to lose and to lose with grace [enter, sportsmanship]. Sports celebrates excellence of the human endeavor. Courage was said to be "grace under pressure." Sports figures should be sports-like, i.e. being a good sport, and set a good example. The doping and steroid scandals in recent years demean sports and glorify taking the easy way out through cheating. It starts early with the youth leagues where parents should be supportive, cheering in the stands and not fighting with each other or the referees, or even encouraging their children to fight other children.

Respect for authority and right to dissent should not be incompatible concepts. We need to avoid the appearance of impropriety to prevent further erosion of public confidence in all our public and private-sector institutions. We need to reverse course away from anarchy, confrontation and polarization, and herald the return of institution building.

Americans are still the good guys epitomized in the scene from the 1987 Stephen Spielberg move "Empire of the Sun," where American soldiers in white camouflage were seen emerging from the mist around a snowy mountain pass to liberate the Chinese in their homeland from Japanese occupiers at the end of World War II.

Solutions: A Return to Virtue, Selfless Leadership and Individual Civic Duty

We need to focus on finding what's missing or lost in American society starting with leadership. What is leadership? Is it to follow the masses, follow the polls ... or to lead them? That's part of why one is in charge as a leader. You represent their interests—not your own. Inspire and uplift. "The only thing we have to fear is fear itself." —President Franklin Delano Roosevelt. President John F. Kennedy challenged us by saying, "We go to the moon. We go to the moon and do the other things ... not because they are easy, but because they are hard."

Kennedy wrote, "A leader is measured by his ability to favor unpopular causes for the good of the people." The question for today: who among our nation's leaders would be a profile in courage? Whether in the halls of Congress or the course of litigation, public policy had always favored compromise and settlement going back to the Declaration of Independence in 1776[6] and later the U.S. Constitution in 1789. Kennedy also once said, "Let us never negotiate out of fear, but let us never fear to negotiate."[7]

Marcus Tullius Cicero [106 B.C.–43 B.C.], a Roman philosopher and lawyer, wrote, "All mankind should lay it down



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as their constant rule of action, that individual and general advantage should be the same: for, if each man strives to grasp every advantage for himself, all the ties of human society will be broken." We can imagine if he were alive today, in light of the current climate in Washington, he would say there are too many partisans and not enough patriots.

The challenge for us pursuant to our canons of ethics is showing the laity how to lead by getting lawyers who are uniquely qualified back in our governing institutions—from school boards to state legislatures to Congress. Bar associations can also do their part in spreading the word. In a free society, citizens can only be educated knowing America will give them the tools and the opportunity to succeed in our society along with their individual civic duty to be vigilant in safeguarding our democratic republic by participating in it and giving back to it. Ben Franklin once wrote that, "the hardest thing for a man to do is change long-standing prejudices of belief, but to succeed in doing it is a test of one's humanity." Education is a lifelong process.

America gives us all the opportunity to make something of ourselves and a better life for us and those we love. The Declaration of Independence contains the phrase "life, liberty and the pursuit of happiness" to make our dreams come true. And many after Word War II did exceedingly well with that opportunity, i.e. empirical stories of them giving money to the U.S. Treasury in appreciation. The challenge is to rethink the direction for society incorporating a return to being virtuous, exceptionalism as a quest of excellence and being a true meritocracy based on merit—for when water rushes into a lake from a dam, it rises all boats big and small equally to the same level.

Yes, America is a work in progress. It is truly the American experiment. There is a maturation of our society requiring sacrifice. It is also that shining city on the hill espoused by President Ronald Reagan. Dr. Martin Luther King Jr. talked about a colorblind society lifting us all to a higher standard with the tools and opportunity to make something of ourselves—for that truly is the American way.

Through the wars of independence and between the states, the Great Depression, two world wars and the civil rights battle waged to extinguish lingering vestiges of our nation's original sin of slavery, America has always risen to the occasion and prevailed. The Greatest Generation, for example, paid off the nation's World War II debt through the sacrifice of paying high income taxes in the 1950s, as well as through inflationary forces.

Therefore, if we all stand strong together and promote an ethics renaissance for our institutions and public discourse, then indeed our best days lie ahead of us as America still is the last best hope for mankind on Earth and for our time and for all time. ●



Patrick G. Longhi is admitted to practice in Georgia and Washington, D.C. With his general trial practice, he has been advising and representing individuals and businesses since the 1980s. He is celebrating 30 years being a program chair and lecturer, especially in the area of ethics, at continuing legal education seminars. An award-winning former local bar president for an educational film he wrote and directed on lawyers and the justice system distributed to libraries and school media centers, Longhi also chaired for more than a decade the Future Leaders of America Scholarships Subcommittee for the Fulton County Law Week Committee for local high school students to study government and politics in Washington, D.C., each summer. He received the Albert Nelson Marquis Lifetime Achievement Award in 2017, a plaque in appreciation from the Fulton County Law Week Committee in 2016 and a letter of recognition from the judiciary of the Fulton County Superior Court in 2014.

Endnotes

1. Frederick Bastiat, The Law 8-9 (1850).
2. For a wider discussion, *see* The Oxford History of Byzantium (Cyril Mango ed., Oxford Univ. Press 2002).
3. https://www.kpk-rs.si/upload/datoteke/ResCM_97_24E_01(1).pdf.
4. *See* American Bar Association, Model Code of Professional Responsibility (1979).
5. Patrick G. Longhi, *Trial Tactics and Ethics,* Ga. B.J., February 2003, at 50-55.
6. In 1754, Ben Franklin created a political cartoon featuring a snake cut into eight pieces with the caption "join or die." It was designed to unite the American colonies against the French and their allies at the start of the French and Indian War. It is thought to be the first political cartoon that advocated unification of the colonies.
7. John F. Kennedy, Profiles in Courage (1956).

The Attorney Personality v. The Lawyering Soul: One Lawyer's Opinion on Hope, Healing and the Sacred Work of a Noble Profession

Every now and then the need to speak up for our profession—to proclaim and celebrate the ways in which it continues to represent some of the best of our culture—beckons.

BY DERRICK ALEXANDER POPE

OCTOBER – DECEMBER TERM, 2023

IN THE COURT OF PUBLIC OPINION

The Attorney Personality,	)	Case No. 1787 – 2023
v.	)	Argued Oct. 14, 1988
The Lawyering Soul.	)	Decided Oct. 14, 2023

ON WRIT OF CERTIORARI TO THE VARIOUS COURTS OF APPEAL IN EVERY CIRCUIT

Pope, J., delivered the opinion of the Court, in which the like-minded are encouraged to join or concur. Dissent has filled the civic consciousness already.

Justice Pope delivered the opinion of the Court. Is there any value to a lawyering identity that (1) cherishes and cultivates a moral-centric purpose to our professional existence and (2) casts a dynamic impression of the grounding values necessary to a healthy society? We believe there is. For the reasons set forth below, we remand the matter and urge its thoughtful consideration by the bar.

The Chief Justice delivered the Opin-ion of the Court.[1] A rabbi, a physician, and a lawyer walked into a bar. The bartender looked at the three with a gaze that betrayed the bewilderment of such unlikely happy-hour travelers. Nevertheless, the familiar question managed its way to the forefront. "What'll you have?"

The physician was first to respond.

"I'll have something light, something tropical. One of my patients is now cancer free. Another, who was pre-diabetic, is now healthier than ever. And another, who we thought could not conceive, is expecting twins! I have to say, today was a great day for healing!"

"I'll have the same," said the rabbi. "One young man came in today with thoughts of suicide. With prayer and counsel, we got him to see that there is still something precious and worthwhile of life even when how it is lived suggests otherwise. A married couple decided that divorce was not their desire, but that each other still was. I have to agree, today was indeed a great day for healing."

Nodding in the direction of the lawyer, the bartender asked, "What about you?"

Finding neither rhyme nor reason, or meter or scheme in the labors of the day, the lawyer slowly stood up, stepped back from the bar, turned in the direction of the door, wistfully looked at all three, and as if speaking to no one in particular said, "I wish I could have what they're having."

This anecdote speaks to a longing that inhabits the lawyering endeavor. Being thought of as a healing profession is a sentiment that has eluded our reflection. Yet, its need is occasioned by the unbecoming and norm-shattering ways that presently cast a pall on the profession. As professional identity is nearly inseparable from public image, perhaps the "deep sense of self in the particular role"[2] of being a lawyer merits serious attention. Perchance, a professional identity akin to mending and curing what ails could be just what the juris doctor ordered.

Important issues are being weighed and tried in the court of public opinion, and their appearance has come before us "gradually and then suddenly."[3] Nearly every aspect of modern living is met with a kind of stinging rebuke taxing our citizenship energies. Each of our once revered institutions is maimed and hobbled by cynicism, and, unsurprisingly, our legal system, and by implication, the legal profession, have not been spared. This is not a matter of first impression as both have been the object of an endless supply of berating jokes and the subject of a truckload of reports chronicling the loss and decline of respected attributes.[4]

But it now visits us against the backdrop of "the wake of revolutionary upheavals and revolutionary changes."[5] In this instant moment, the moving party's motion to dismiss the significance of the rule of law raises grave concern.[6] Consequently, the various issues presented in these consolidated cases require immediate attention.

Every now and then "the need to speak up for our profession—to proclaim and celebrate the ways in which it continues to represent some of the best of our culture" beckons.[7] Answering the summons requires the occasional reminder of the qualities that make ours a noble profession. That reminder should include getting reacquainted with the ennobling traits found in the types of people who become lawyers. It also demands that we revisit some troubling concerns that betray our calling, and, lastly, that reminder should move us to reimagine the ways those attributes converge to the benefit of those we serve, and to ourselves.

Despite being swept up in the torrent maelstrom of a neurotic redo of an earlier period, this moment pleas for soteriological advice; a rescue-oriented counsel from one accustomed to and undaunted by perilous times. That counsel will require an atavistic thinking about ourselves as lawyers—and law—in ways that are familiar, but not often emphasized.

To that end, this court offers the thoughtful consideration of a lawyering identity that (1) cherishes and cultivates a moral-centric purpose to our professional existence and (2) works to cast a dynamic impression of the grounding values necessary for a healthy society. To achieve this, let us explore in its fullest dimensions the aspirational standards of "moral achievement"[8] and the joinder of that aspiration to a broadened understanding of "the special responsibility for the quality of justice."[9]

In Whose Image? After Whose Likeness?

The entire legal profession—lawyers, judges, law teachers—have become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be healers—healers of conflict. ... Should lawyers not be healers: Healers, not warriors? Healers, not procurers? Healers, not hired guns?[10]

The Attorney Personality

Ethical rules assign to members of the legal profession a quite distinct and specific tripartite image. "A lawyer is a representative of clients, an officer of the legal system and a citizen having a special responsibility for the quality of justice."[11] Our principal concern here is the lawyer as a citizen, and how a moral-centric identity might figure in that role. But, as a threshold matter, some attention to the first offers value in understanding the third. We thus begin our focus on the function of advocacy.

"In our culture we have created an abstract image of the law and lawyers that guides our understanding more than our actual experience. ... These abstractions come from unreliable sources ... yet they dwell within the culture and public mind as if they were real and fixed."[12] The image of the courtroom warrior, aided in no small part by motion pictures and television programs, has been etched indelibly in the minds of the public.[13] Recently, advertisements promoting legal services have contributed to what, and how, the public thinks of attorneys.[14] It is in the real-life work, however, where certain personality traits have been engendered by the avowal of what constitutes advocacy. These traits, at times, have proven to be less flattering, and dodgier, than we know.

Advocacy, in our ethical standards, is marked by the notion of "zealousness." Lawyers are told to "act with commitment and dedication to the interests of the client and with *zeal in advocacy* upon the client's behalf"[15] and to *"zealously* assert[s] the client's position under the rules of the adversary system.[16] In the process of time, however, a standard begat a mantra begat a dogma, and the image of an attorney as a "hired gun"[17] was born.

Used by critics of the legal profession, clients, and even attorneys themselves, the metaphor characterizes the lawyer as one whose "skills are to be used solely and unreservedly to obtain what the client wants."[18] From this, many believe that lawyers are willing to do whatever it takes to win a case, even acting in ways that "otherwise would be morally

blameworthy."[19] Risking charges of defensiveness and protectionism, we note the "certain unfairness in this since lawyers are not the principals but only the agents of those who are in conflict."[20] Yet, this dubious makeup is the dominant and controlling descriptor of what it means to be an advocate, oftentimes becoming the reflexive, adopted posture of many a practitioner.

At one point, the hired gun persona ushered in a perceived loss of civility, a decline in public opinion, and an increase in professional dissatisfaction and dysfunction. This three-headed ogre prompted a need for a set of principles and standards, the adherence to which would permit us to remain, on the one hand and in some form, in good standing with the public, and on the other, unflustered with ourselves. Consequently, the organized bar became gung-ho advocates for professionalism, a term that has become the shorthand expression of the sort of values, ethics, and attributes to which each and every member of the bar is expected to personify.

Professionalism

Nationwide, the roots of professionalism are traceable to a 1986 report from the American Bar Association entitled, "A Blueprint for the Rekindling of Lawyer Professionalism." This report laid the foundation for a number of state efforts to formalize restoring the legal profession to the halcyon days of public esteem and civility among its members. In 1989, Georgia established the Chief Justice's Commission on Professionalism to "identify, enunciate and encourage adherence to nonmandatory standards of professional conduct."[21] In addition, Georgia instituted, among other things, a lawyer's creed, a statement of professional aspiration and continuing legal education requirements devoted exclusively to the matter.

At the peak of the emphasis on professionalism, however, some began to think critically about its implications, its possibilities and its limitations.[22] From their work it became apparent that what was said to be and what was understood and expected from professionalism brought out, and in some instances enlarged, certain behaviors, which then had an inimical effect on professionalism.

The First, Subtle Appearance

As a representative of clients, lawyers spend most of their time in "the trenches of conflict and pain."[23] The work of advocacy can be scarring, because implicit in representation is the expectation that we *relieve* pain by *reallocating* pain, a phenomenon outside the call of a doctor or a minister. Who better than a "hired gun" to make the other side feel as bad as I do?

This professional existence can, and often does, unwittingly unleash concerning habits and tendencies. Its causes are many and varied, but the cumulative toll it takes is undeniable. It makes its first, subtle appearance in the womb of our development—law school.

The beginnings of our legal training emphasize what it takes and what it means to "think like a lawyer." We hone this skill by sifting through a carefully cultivated, edited morass of judicial opinions, extracting from each little tidbits of the lawyerly mindset and behavior required for the competent delivery of a professional service. We learn to see both and multiple sides of an argument, and as the aptitude is developed, we risk losing sight of the people at the epicenter of the fracas. Most, if not all, law students at various times "submerge their care orientations in order to 'align with the rights assumptions of law schools.'"[24]

Still, we enter law school having a sense of the immense joys and undiscriminating hardships that are so much a part of human existence. Each of us has the capacity to share in the delight of the one and be empathetic in the face of the other. This "sympathetic leaning toward the issues and situations of others" makes us "inherently rescuers."[25] Beyond law school and passing the bar, the clash between the "sympathetic leaning" and the posture to "fit in" results in a sort of inward discomfort. A host of unflattering cognitions and behaviors take hold as this inner struggle consumes.

A Sort of Moral Schizophrenia

We tend to slip into, then settle for coping mechanisms that are injurious to ourselves, and potentially, to those we serve. In the mildest sense, denying the tension altogether shares prominence with trying to function between split personalities. This coping strategy produces a sort of "moral schizophrenia."[26] More severely, lawyers and law students have maintained a higher rate of substance abuse and depression when compared to other disciplines.[27] Most problematic is the impact the attorney personality has on well-being, which, at present, is a focal point of attention for the organized bar.[28]

To a lesser, but still significant contributory, extent, almost half of law students "reported uncertain career goals as the reason to attend law school."[29] Lastly, despite the charming thought of lawyerly opulence, practicing law is not an easy way to make a living, thus making economic pressures a real constant in professional behavior. Unsurprisingly, the accumulating upshot of all these factors is extreme job dissatisfaction.[30]

In this internecine famine, professionalism offers itself as the preferred entrée on the menu of what should be regarded as the grand ideal of being a lawyer. Urged as a part of a healthy professional diet, it is served in digestible portions in required classes in law school and mandatory com-

ponents of continuing legal education. There has been no greater watchword than professionalism to promote what could create a shared sense of a professional identity. Yet, because it is so intertwined with discipline-oriented ethical standards, professionalism does not get to be as nourishing a cuisine as might be imagined.[31] Far from being "the ultimate hallmark of the practice of law," professionalism has, of late, come to resemble a ubiquitous hall monitor for the practicing lawyer. "It is not surprising, therefore, that many lawyers find the combination of the hired gun ideal and the professionalism rhetoric disheartening."[32]

A Moral Imperative

What professionalism cures in one aspect it admits of its inability to treat in another. Both the ABA Model Rules and the Georgia Rules of Professional Conduct note the limitations of the reach of the standards set forth. Each recognize that "all difficult ethical problems arise from conflict among a lawyer's responsibilities to clients, to the legal system, and to the *lawyer's own interest in remaining an upright person.*"[33] The conflict should be resolved, say the rules, "through the exercise of sensitive professional and moral judgment" primarily because the rules themselves "do not ... exhaust the moral and ethical considerations that should inform a lawyer, *for no worthwhile human activity can be completely defined by legal rules.*"[34]

To that end, Georgia promotes certain desired attributes in an Aspirational Statement on Professionalism. While other states have similar approaches, Georgia appears to stand alone in its expression that links performing legal work to a highly commendable, hoped for outcome. Georgia lawyers should aspire to "achieve the excellence of our craft, especially those that permit [being] the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. *Good lawyering should be a moral achievement for both lawyer and the client.*"[35]

It is noteworthy that the lawyer's professional rules make room for "the work of the profession as a moral enterprise."[36] This recognition permits entry into the record the much-needed testimony of other alimentary concerns, the type that tug away at the innermost thoughts of professional stirrings.

As we have noted earlier, the habit of "conforming to the flawed patterns"[37] of an acquired personality visits upon lawyers a great harm. Better means exist to soothe what ails us, which may also be the elixir of transformation to bring about healing through our professional service to others. The recent attention given to lawyer well-being insists upon "a continuous process where lawyers seek to thrive in ... emotional health, occupational pursuits, creative or intellectual endeavors, *sense of spirituality or greater purpose in life*, physical health and social connections with others.[38] Embracing the thrust of this effort, it is now to the sense of spirituality or greater purpose in life that we turn to unearth the healing properties and restorative capabilities implicated in the aspiration of moral achievement.

The Spirit of the Law

... not of the letter but of the Spirit; for the letter kills, but the Spirit gives life.[39]

The Lawyering Soul

"Attorneys and persons choosing to attend law school have specific empirically demonstrable characteristics, partially responsible for the current crisis in the legal profession."[40] A difference, of sorts, exists between being an attorney and being a lawyer.[41] Accepting Dean Hall's treatment, the adapted personality traits, formed in our understanding of what it takes to be an attorney, run counter to those flowing from the soul of a lawyer. If certain less desirable "demonstrable personality characteristics" exist in the habits of some before entering the profession, so too must the more admirable traits be found in still many others on the way to the bar.

As it turns out, lawyers as a group are not that much different than most subspecies of the human family. We eat when we are hungry. We laugh to express joy. We require shelter from the elements. We tend to find some things more desirable than others, and given a preference, we are more likely to choose comfort and tranquility over burden and conflict. So, when deciding on a particular occupation, like others, we opt for one that seems to strike a harmonious chord with an inner melody discovered in our formative years. To be sure, there are "traits in lawyers, perhaps stemming from childhood, that are congenial to law's practice or the legal profession would not have attracted us."[42]

When adversity and conflict occur, we are wont to believe that some curative or remedial measures exist, or ought to exist, to ameliorate the condition. Against this belief, the "sympathetic leaning" toward others reveals the highest value or

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character trait a lawyer possesses. At our core, we have a personal willingness to be an advocate *for another* in the cause of *an other*. It is not surprising that this certain kind of individual is moved to choose law as a career. It appears, then, that a plausible basis exists for an affirmative reply to the question "[s]hould lawyers not be healers?"[43] But when do we become acquainted with this aspect of our character? How does it lead us to a career in the law? How can it be cultivated?

It is the sense of greater purpose in our lives, a yearning to locate meaning in the things we choose to devote our lives to, that motivates. Almost always, personal meaning is indistinguishable from some marking that is higher and greater than being merely and solely human. Returning to the beginnings of our legal training, one clinical law professor found that his students longed for more.

> [T]here was more to this than just a search for criteria ... of particular lawyering tasks. I knew that my students sought personal meaning in the practice of law ... they wanted to discover for themselves if a lawyer was something they could feel good about. I wanted to be able to offer my students a conception of the practice of law that not only described it, *but justified it*, and that did so in terms acceptable to them. [44]

Undoubtedly, Dean Sammons is correct to emphasize law school as critical to a lawyer's development. But an earlier moment exists, before the law school point of entry—a moment that led to admission, to application, to aspiring—a moment where the spark of interest relocated us to a "territory of inspiration."[45] Every now and then it is fitting to reflect fondly the memory of that spark, the experience of entering that territory, as a means toward a renewed sense of purpose and vitality.

The Fair Maiden of Law

She made herself known to me first as a tutor in the Watergate upheaval, calmly educating me on the nature of the constitutional rigamarole that had befallen the nation, then as a wayfaring observer, offering background to what exactly the returning troops from Vietnam had gone off to accomplish, and finally as a triumphant, but vigilant counselor fresh from her victories in matters pertaining to the civil rights of my racial kinfolk.

In each instance where the grand dame of governance proved insufficient or incapable of approximating its own high standards, the fair maiden of law showed herself more than adept at the matter at hand. Her conversation—whether in sotto, hushed tones, or mezzo voce full-throated shouts—was always punctuated with the honeycombed insistence on doing what was right and what was required simply by dint of moral understanding.

Yet, it was not laws that attracted, but something more.

Laws, variously presented as constitutions, statutes, ordinances, or rules and regulations, are merely shimmering leaves on a mighty tree that is the centerpiece of a majestic forest, itself a part of a grand ecosystem.

Laws are like resplendent notes released by skilled musicians through crafted instruments, both cued into playing by the watchful conductor whose ear is always attuned to the intention of the composer.

As in nature's landscape, and in the orchestral movement, there is in the law, the presence of a great unseen but perceptible dynamic, governing and guiding. Law's alignment with that force was her siren song. So, when she spoke, there was an inward sentiment drawing me to this outward settlement. It felt like what the religious community termed "a calling."

It was like that, but not quite that.

We tend to explain that sense, sidestepping the term 'calling' and what it implies, employing instead vocation, a serviceable proxy even with its allusion to a religious calling.[46] The term has a familial relationship to the Latin *vocativus*, which means "the calling case"—some event or cause, either general or specific that requires a response to the ethic of right and just considerations.[47] Hence, it is understandable why many identify the practice of law in terms of being a vocation.[48]

Although a groundswell of scholarship has ably demonstrated the connective tissue between the profession of law and the profession of faith, [49] nothing here should be regarded as the promotion of a legal theology, aimed at the conversion of new acolytes. The oddities of such a proposition should be so apparent as to obviate mentioning. Moreover, our well-rehearsed sensibilities, I suspect, have aged out of the conviction that moral understanding is a trait possessed only by the religiously culled. Nor is what we set forth today a clandestine desire born of a naïve thinking that all lawyers fit or want to be identified by this description. To be sure, "not all professional identities are created equal."[50]

What is intended, however, is to acknowledge the inkling of spirituality keenly felt by many in the profession, even though it is a "hard concept to grasp and a controversial one to invoke ... and embrace within the confines our work."[51] Many lawyers "conceive[ ] of law altogether as a manifestation of something beyond itself, *a witness to something greater*."[52] To that end, what is meant here is to make room for the intimacy between the "two major dimensions of the social life" of humankind as a means of injecting vitality into the work of the profession, by grabbing hold of the healing properties in both.

Making the Crooked Places Straight

The spirit of the law and the letter of the law are phrases familiar to many. One shares a border with the other, and the distinction carries both sacred and secular meaning. With the objective of forging a sustaining professional identity in mind, and as a concern of well-being, the sense of spirituality urged here refers to "that undetectable, yet real, place where intellect, emotions, beliefs and actions merge into a pattern of existence."[53] What we find, then, in this "undetectable, yet real" setting is a solid anchoring for our professional strivings; one that helps us better translate the aspiration of moral achievement. Translation begins with being attuned to "language in which humankind has lived in hopes of relating to Ultimate Reality for millennia."[54] To be sure, "we are all impoverished when our moral dis-

course is limited to the language of rights and autonomy; when Aquinas, Calvin and Barth are ignored; when Amos, Isaiah and Jeremiah are deemed irrelevant."[55]

Consider the difference in how our precepts might be otherwise conveyed—and perceived—when cases and controversies require our zealous advocacy. Conformed, the attorney personality accepts as informative the haughty expressions that some things "offend the traditional notions of fair play and substantial justice,"[56] ignore what it is "implicit in the concept of ordered liberty,"[57] involve the "immutable principles of justice as conceived by a civilized society"[58] or "unduly burden a fundamental right."[59]

In contrast, transformed, the lawyering soul is content with the testimony that its work is to "make the crooked places straight."[60] One relies upon the lessons of the letter of the law, the other upon the sweet and simple urgings of its spirit.

A Conflict of Laws

There are, to say the least, palatable reasons why the legal profession courts in the shadows the sensual commands of morality rather than commit openly to a covenantal relationship. Some "built-in headwinds"[61] make the conversion of mind to see ourselves as more than zealous advocate easier said than done. Traits that make the profession appealing and effective can be seen, in one light, as cause for admiration, and in another the very things that keep us hemmed in and uninspired by what we do. One built-in headwind is the aspect of our training that craves certainty.

"We only want to be committed to what we know for sure, rather than grounding commitment in the deeper soil of ultimate being."[62] But deep soil is rather different than solid ground. Lawyers have little comfort with a regulatory dynamic not tied to a set of ascertainable and prescribed guidelines. At first blush, an air of mystery appends to a moral-centric professional identity that may not comport easily with the obligations inherent in either of a lawyer's tripartite roles. Analysis and reason and some tangible sense of the matter is to be preferred to the ethereal. It is asking quite a bit from those whose nature and training abides more in the former, not to be somewhat skeptical of the latter.

Yet, there may be more congruence than we think. Solving for "X" always attends the knowable techniques deployed in drafting a contract for the sale of property or the acquisition of an interest in business, in constructing an estate plan to provide for the care of others and the avoidance of unwanted taxes, or the craft of legislation to attract commercial enterprise for job creation or to prohibit employment discrimination. A moral-centric identity embraces and accepts the challenge that the "mystical stuff ... in tandem with what we easily recognize as rational, is irresistibly helpful to understanding law."[63]

That tandem helps brace the related headwind of what may trouble most. Law tends toward an authoritarian presence because all morals are not created equal. What is moral to one may be relatively different than what is moral to another.[64] Instead, law pretends an indifference, couched as being objective; its better angel hopes masked by the specter of proscriptive dictates. We have been trained to eke out justice by the skillful use of the neutral letter of the law, and it is to that "black letter" we turn to secure certainty and closure.

The spirit, however, invites a "turn of mind and heart from the trap of mere letter."[65] It emancipates, and in so doing, returns us to where we started—our territory of inspiration—but in a way that lets us know the place for the first time. Thus freed, we can become healers of conflict, and be seen that way having been outfitted in the splendid new garment of a moral-centric identity.

So adorned, and better enabled to translate the ideals of moral achievement, we can shed our reticence to "talk about what matters, even when the things that matter prove difficult to define or impossible to measure."[66] "As moral beings we must decide and decision means choice. This is unquestionably true when it comes to the legal profession and moral justification of the lawyer's role."[67]

Fulfilling this role allows us to present the dynamic of our profession as one that is as much *ministerial* as it is magisterial, as much *pastoral* as it procedural, made possible because the spirit gives life to the letter. ●



Derrick Alexander Pope, an adjunct professor of business law in the Stetson School of Business at Mercer University, is the copyright owner of seven literary works, including three books, a blog, one soundtrack recording, two trademarks and one podcast. He is currently working to expand his intellectual property with the addition of a book and a documentary. He can be reached at dalexanderpope@att.net.

Endnotes

‡ Author's note: The title of this article comes from a sub-heading in Chapter 2 of The Spiritual Revitalization of the Legal Profession, by David Hall, *infra* note 12. In "The Attorney Personality and the Lawyer's Soul," the author suggests that we find our personality in the definition of the word attorney, but our true essence resides in the meaning of lawyer. *See, infra,* text accompanying note 41.

The opening graphic contains select dates of significance. The beginning year of the "case number" refers to the year in which the U.S. Constitution was adopted. The Oct. 14, 1988, "Argued" date was the date of the inaugural Georgia Convocation on Professionalism.

1. The Author's use of the term "Justice" is by no means intended to caricature or disrespect members of the Judiciary. Its use here, as a literary device, conforms to presenting the substance of the article

in a format familiar to every member of the legal profession. The author has a deep and long-standing approbation for those who serve the public and the legal profession as judges.

2. Patrick Emery Longan, Daisy Hurst Floyd, and Timothy W. Floyd, The Formation of Professional Identity: The Path from Student to Lawyer, 4 (2020) [hereinafter, Longan, The Formation of Professional Identity].
3. Ernest Hemingway, The Sun Also Rises, 141 (1926). This is the famed response given by Mike, the perpetually inebriated Scottish war veteran to the question of how he went bankrupt.
4. John L. Cromartie, Jr., *Reflections on Vocation, Calling, Spirituality and Justice*, 27 Tex. Tech. L. Rev. 1061, 1065 (1996) [hereinafter Cromartie, *Reflections on Vocation*]. "In addition to tiresome and unimaginative lawyer jokes I constantly hear ... I also hear variations on the comment that the legal profession does not have a soul, and by implication that those within the profession are involved in work that kills the spirit and the soul."
5. Harold J. Berman, Faith and Order: The Reconciliation of Law and Religion, 6 (1992) [hereinafter Berman, Faith and Order].
6. I prefer to avoid the reflexive use of "crisis" or "existential" although each continues to be the descriptor of choice among many. It is enough, I believe, to press upon those affected by and concerned with a situation of their own making, how serious and critical a matter is without resorting to a "sky-is-falling" warning. Appeals of this sort offer to those who can and might roll-up-their-sleeves the chance to instead throw their hands up in defeat and treat the matter as though demise is an ineluctable and foregone conclusion.
7. Cromartie, *Reflections on Vocation*, *supra* note 4, at 1066.
8. Georgia Rules of Prof'l Conduct, Part IX, General Aspirational Ideals, h, 2023. *See infra,* text accompanying note 35.
9. Georgia Rules of Prof'l Conduct, pmbl., 1, 2023; Model Rules of Prof'l Conduct, pmbl. at 1 (Am. Bar. Assoc. 2023).
10. Warren E. Burger, *The State of Justice*, Vol. 70 A.B.A.J., (April 1984), at 66. [hereinafter, Burger, *The State of Justice*].
11. *Supra* note 9. Model Rules of Prof'l Conduct, pmbl. at 1 (Am. Bar. Assoc. 2023)). The Model Rules of Professional Conduct, promulgated by the American Bar Association offers a slight variation. "A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a *public* citizen having special responsibility for the quality of justice." (emphasis supplied). In addition, as a representative of clients, a lawyer functions, at various times, as a negotiator, an evaluator, an advisor, an intermediary, or as an advocate.
12. David Hall, The Spiritual Revitalization of the Legal Profession: A Search for Sacred Rivers, 60 (2005) [hereinafter Hall, The Spiritual Revitalization of the Legal Profession].
13. "To Kill a Mockingbird," "Inherit the Wind" and "A Time to Kill" are among the most acclaimed, celebrated lawyer movies, with "Perry Mason," "Matlock," "LA Law" and "Law & Order" counting as top-notch television shows about the profession.
14. Advertising for legal services gained approval in 1977 with the Supreme Court decision of Bates v. Arizona, 433 U.S. 350 (1977), holding rules of professional conduct prohibiting advertising violated commercial free speech interests.
15. Georgia Rules of Prof'l Conduct, r. 1.3 cmt. 1. (2023) (emphasis supplied).
16. Model Rules of Prof'l Conduct, pmbl. at 2 (Am. Bar. Assoc. 2023). (emphasis supplied).
17. *See generally,* Michael I. Krauss, *The Lawyer as Limo: A Brief History of the Hired Gun,* The Univ. of Chicago Law School Roundtable, Vol. 8, no. 2 (2002), and Joseph Allegretti, *Have Briefcase Will Travel: An Essay on the Lawyer as Hired Gun*, 24 Creighton L. Rev. 747 (1991) [hereinafter, Allegretti, *Have Briefcase Will Travel*].
18. Allegretti, *Have Briefcase Will Travel, supra* note 17, at 749.
19. *Id.* at 773.
20. Warren E. Burger, *Remarks of Warren E. Burger Chief Justice of the United States at the Dedication of Notre Dame London Law Centre: The Role of the Lawyer Today*, 59 Notre Dame L. Rev. 1, 4 (1983).
21. Georgia Rules of Prof'l Conduct, Part IX, r. 9-101 (2023). For an excellent account of the historical background of the Commission see *State Bar of Georgia Handbook,* 104 – 106 H (1993-94).
22. *See generally,* Robert F. Cochran, *Professionalism in the Postmodern Age: Its Death, Attempts at Resuscitation, and Alternate Sources of Virtue*, 14 Notre Dame J.L. Ethics & Pub. Pol'y 305 (2000) [hereinafter, Cochran, *Professionalism in the Postmodern Age*]; *supra* note 5 Cromartie, *Reflections on Vocation*; Susan Daicoff, *Lawyer Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 Am. U. L. Rev. 1337 (1997) [hereinafter, Daicoff, *Lawyer Know Thyself*]; Neil Hamilton, *Professionalism Clearly Defined*, Prof. Law., Vol. 18, No. 4. (2008); and Thomas L. Shaffer, *Faith Tends to Subvert Legal Order*, 66 Fordham L. Rev. 1089 (1998).
23. Hall, The Spiritual Revitalization of the legal profession, *supra* note 12, at 1.
24. Daicoff, *Lawyer Know Thyself, supra* note 22, at 1401, *quoting,* Sandra Janoff, *The Influence of Legal Education on Moral Reasoning,* 76 Minn. L. Rev. 193, 227 (1991).
25. James McCobb, *Abe's Ethics: Lawyer Lincoln and the Golden Rule*, Or. St. B. Bull. (April 2005) [hereinafter, McCobb, *Abe's Ethics*].
26. Cochran, *Professionalism in the Postmodern Age, supra* note 22, at 312. "... professionalism is moral schizophrenia, with one set of values at the law office and another at home." *See also*, Donald C. Mulcahey, *A Plea for Moral Education in Law Schools,* 2 J.L. & Religion 101 (1984). [hereinafter, Mulcahey, *A Plea for Moral Education*]. "The anomaly is, of course, that one should cast aside moral considerations while studying law but act in a morally upright manner later on in the practice of law."
27. *See generally,* Daicoff, *Lawyer Know Thyself, supra* note 22; Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, Ph.D., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns,* 66 J. Legal Educ., Autumn 2006, at 1. [hereinafter, Organ, *Suffering in Silence*].

28. In 2020, the Institute for Well-Being in Law was formed to carry on the movement launched by the National Task Force, itself a product of the 2016 American Bar Association survey of alcohol, drug and mental health issues, and help-seeking behaviors among law students. Similarly, the State Bar of Georgia established in 2015 the Attorney Wellness Taskforce, a standing committee to address attorney wellness, complete with a dedicated web presence dubbed Georgia Lawyers Living Well. Recently, the Board of Governors of the State Bar of Georgia established The Center for Lawyer Well-Being to serve as the umbrella apparatus for the full suite of well-being initiatives undertaken by the taskforce.
29. Daicoff, *Lawyer Know Thyself, supra* note 22, at 1357.
30. *Id.* at 1341; Organ, *Suffering in Silence, supra* note 27, at 7.
31. Hall, The Spiritual Revitalization of the Legal Profession, *supra* note 12, at 23. "The Model Rules ... suffer from the twin defect of being too abstract and too rule based. They are structured and conveyed as things 'to do or not to do' instead of things to be or to become. The Rules are aspirational in nature, but they are not inspirational in effect. ... They are regulatory, not transformative."
32. Russell G. Pearce and Amelia J. Uelman, *Religious Lawyering in a Liberal Democracy: A Challenge and an Invitation,* 55:1 Case W. Res. L. Rev. 127, 149, (2004) [hereinafter, Pearce, *Religious Lawyering*].
33. Georgia Rules of Prof'l Conduct, pmbl., 8, 2003. (emphasis supplied). The ABA differs slightly by noting the difficulties inherent in "remaining an ethical person while earning a satisfactory living." Model Rules of Prof'l Conduct, pmbl. at 9 (Am. Bar. Assoc. 2023).
34. Georgia Rules of Prof'l Conduct, pmbl., 8, 14, 2003; Model Rules of Prof'l Conduct, pmbl. at 9, 16 (Am. Bar. Assoc. 2023). (emphasis supplied).
35. Georgia Rules of Prof'l Conduct, *Aspirational Statement on Professionalism*, h, 2023.
36. Jack Sammons, *Meaningful Client Participation: An Essay Toward a Moral Understanding of the Practice of Law,* 6 J.L. & Religion 60, 93 (1988) [hereinafter, Sammons, *Meaningful Client Participation*].
37. Ken Shigley, *A Lawyer's Calling,* Ga. B.J., Vol. 17 (August 2011), at 7.
38. *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,* Report of the National Task Force on Lawyer Well-Being, https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-report.pdf at 9. (emphasis supplied). *See* also, Longan, The Formation of Professional Identity, *supra* note 2, at 13.
39. *2 Corinthians* 3:6.
40. Daicoff, *Lawyer Know Thyself, supra* note 22, at 1342.
41. Hall, The Spiritual Revitalization of the legal profession, *supra* note 12, at. 440, FN 104. "I have purposely chosen to use attorney in regards to ... personality because the word attorney is generally defined more narrowly than lawyer. Attorney ... refers to a legal agent for a client in the transaction of business. ... On the other hand, I have purposely used lawyer to refer to the ... soul because it is generally defined to encompass a broader understanding and responsibility."
42. McCobb, *Abe's Ethics, supra* note 25.
43. Burger, *The State of Justice, supra* note 10.
44. Sammons, *Meaningful Client Participation, supra* note 36, at 62. (emphasis supplied). *See also,* Anthony T. Kronman, The Lost Lawyer: Falling Ideals of the Legal Profession, 2 (1993). [hereinafter, Kronman, The Lost Lawyer]. "Whatever external goals they aim to achieve through the practice of law, most lawyers also hope that their work will be a source of satisfaction in itself. Indeed, many hope that the intrinsic satisfaction it affords will be important enough to play a significant role in their fulfillment as human beings."
45. Gary Zukav, The Seat of the Soul, xxx (1989).
46. "An urge or predisposition to undertake a certain kind of work, especially a religious calling." The American Heritage Dictionary 1353 (2nd ed. 1991). It comes from the Latin word *vocare* meaning "to call" which serves as the basis for its religious use, as in answering a call to the ministry.
47. Ernest Weekly, An Etymological Dictionary of Modern English 1602 (Vol. 2 1997).
48. Cromartie, *Reflections on Vocation, supra* note 4, at 1066. "... what the professionalism movement is really attempting to explore is tied into what some have called a sense of vocation."
49. "By emphasizing the interaction of law and religion, we may come to see them not just as two somewhat related social institutions, but as two dialectically interdependent dimensions—perhaps the two major dimensions—of the social life of man." *Supra* note 5, Berman, Faith and Order, at 19; "Law is analogous to religion because it seeks to do those same things that religion seeks to do. Therefore, those who engage in the practice of law are entitled to see it as something sacred, and not just as another occupation." Hall, The Spiritual Revitalization of the Legal Profession, *supra* note 12, at 76; "[Law and religion are both] vehicles through which we talk about and become the kind of people we are." Sherman J. Clark, *To Teach and Persuade,* 39 Pepp. L. Rev. 1371 (2013); "To ignore that the two together shape jurisprudence is to ignore history and reality." Timothy Fort, *A Jurisprudence of Faith: An Experiment in Using Theology to Interpret Jurisprudence,* 30 Cath. Law. 22, 47 (1985); "This is in good truth in many ways a priest-like job, and I particularly need the encouragement and confidence of hard headed spirits like yourself." Daniel Rice, *Felix Frankfurter and Reinhold Niebuhr: 1940 – 1964,* 1 J.L. & Religion 101 (1984) (Felix Frankfurter letter; FF to RN, 2/21/1940). These offerings, notwithstanding, I purposely and decidedly, for all the reasons imaginable, do not use the word religion when laying claim to the shared habits and focus of the two.
50. Longan, The Formation of Professional Identity, *supra* note 2, at 4.

51. Hall, The Spiritual Revitalization of the Legal Profession, *supra* note 12, at 18.
52. Berman, Faith and Order, *supra* note 5, at 218. (emphasis supplied).
53. Hall, The Spiritual Revitalization of the Legal Profession, *supra* note 12, at 22.
54. Emily Fowler Hartigan, *Law and Mystery: Calling the Letter to Life through the Spirit of the Law of State Constitutions*, 6 J.L. & Religion 225, 226 (1998) [hereinafter, Hartigan, *Calling the Letter to Life*]. "The spirit we hope to tap is not necessarily theistic, but there is some correspondence among ideas of spirit, consciousness and God. As with the best of such language, we must speak not only of belief but also of doubt and mystery beyond necessary reason."
55. Joseph Allegretti, *Lawyers, Clients, and Covenant: A Religious Perspective on Legal Practice and Ethics,* 66 Fordham L. Rev. 1101, 1105 (1998).
56. International Shoe Co. V. Washington, 326 U.S. 310, 316 (1945), *quoting,* Milliken v. Meyer, 311 U.S. 457, 463 (1940).
57. Palko v. Connecticut, 302 U.S. 319, 325 (1937).
58. Adamson v. California, 332 U.S. 46, 60 (1947) (Frankfurter, J., concurring).
59. Derrick Alexander Pope, *A Constitutional Window to Interpretive Wisdom: Or in Other Words ... The Ninth Amendment*, 37 How. L.J. 441, 447 (1994), noting the volume of cases turning on an asserted right being fundamental.
60. *Isaiah* 45:2.
61. Griggs v. Duke Power, 401 U.S. 424, 432 (1974).
62. Hartigan, *Calling the Letter to Life, supra* note 54, at 269.
63. *Id.* at 234.
64. Mulcahey, *A Plea for Moral Education, supra* note 26, at 105. "One of the most disturbing aspects of relativism is the ease with which awareness of relativity in values moves some to conclude that this entails indifference."
65. Hartigan, *Calling the Letter to Life, supra* note 54, at 237.
66. Clark, *To Teach and Persuade, supra* note 49, at 1372.
67. *Id.*



Paws Between Homes: Lawyers Help Pet Owners in Crisis

Lawyers are helpers, first and foremost—and the beneficiaries of our help may be animals as well as humans.

BY COLE THALER

When Tiffany[1] called Paws Between Homes for help, she had just been served with a Fulton County dispossessory after falling one month behind in rent. She was renting an apartment on Atlanta's Westside where she lived with her dog, a shihtzu named Rocky.

When Kay, a military veteran, called Paws Between Homes, she was living in a motel room with Charlie, a Pomeranian. Her landlord had sold the home she was renting, and she was waiting for housing help from the Veterans Administration.

And when Tracy called Paws Between Homes, she was living in her car with her dog, a mixed breed named Ladybug, and her cat, Cinder, after an argument led to her roommate demanding they leave.

All three women reached out in a desperate attempt to avoid surrendering their cherished pets to their local animal shelters. And, several months later, all three were able to reunite with their pets in new housing.

Founded in 2019 by attorneys and animal welfare professionals, Paws Between Homes is unique in Georgia: it is a licensed animal rescue that temporarily fosters pets for people facing eviction or other housing loss—with a side of legal assistance.

Since its inception, the rescue has placed more than 150 pets—including Rocky, Charlie, Ladybug and Cinder—into foster homes until their permanent guardians located new housing, an average of 90 days. The rescue provides veterinary care through its partnership with the Atlanta Humane Society and offers fosters all the food and supplies needed to care for the pet. This safety-net foster program exemplifies a growing trend in the animal welfare world: striving to keep pets and their people together through hardship by providing support and resources.

But even as more safety-net foster programs spring up, from Salt Lake City to Nashville and all around the country, Paws Between Homes stands alone in being founded and run in part by attorneys with expertise in landlord-tenant law.

Cole Thaler, the president of Paws Between Homes' Board of Directors, is a tenants' attorney at the Atlanta Volunteer Lawyers Foundation. Co-founder and Board member Stacy Reynolds is an Atlanta Legal Aid attorney, as is Steering Committee member Maggie Kinnear. And co-founder and former Executive Director Sarah Rosenberg is a former attorney whose legal career included several years at King & Spalding. Paws Between Homes has also enlisted intern support from students at Emory University School of Law and Georgia State University College of Law. Fosters have included law professors, law students and practicing attorneys.

What does the legal profession have to do with fostering pets? A great deal, as it turns out. As an organization devoted to helping tenants facing housing displacement, Paws Between Homes' clients like Mary and Tiffany find themselves facing an eviction process that they may not understand. The rescue provides legal information about how the process works, including informing tenants that they must file an answer with the court within seven days or face a default judgment. Where appropriate, attorneys provide legal advice on individual cases and referrals to sources of free legal help. Callers to the rescue have a range of other legal questions—including whether their landlords can abruptly institute a no-pet policy when their lease agreement provides otherwise (no) and whether restrictions on certain dog breeds in rental housing are legal in Georgia (yes). Paws Between Homes answers these questions as they arise and has posted a legal information sheet for tenants with pets on its website.[2]

Additionally, a number of Paws Between Homes' callers report that they have been diagnosed with mental health conditions and that being separated from their pets would be particularly detrimental to their well-being. In these cases, the rescue informs tenants that they can speak with a mental health professional about whether they qualify for an Emotional Support Animal (ESA). An ESA is a type of assistance animal that provides therapeutic support to someone with a qualifying disability under the federal Fair Housing Act[3]. Landlords must provide reasonable accommodations to tenants who have legitimate ESAs, as confirmed in writing by their mental health



care provider. Kay, the military veteran, spoke to a therapist who documented her eligibility to have Charlie as her ESA.

Many Georgia attorneys and legal professionals are pet owners and animal lovers but may not recognize the areas of overlap between their professional work and animal welfare issues. In the wake of the COVID-19 pandemic, legal needs around eviction are particularly acute. For example, the Atlanta Region Eviction Tracker reports that more than 72,000 dispossessories were filed in the first half of 2023 in the five-county metro-Atlanta region (Fulton, Cobb, DeKalb, Clayton and Gwinnett counties).[4]

According to the United States Humane Society, 72% of tenants are pet owners.[5] When a pet-owning household gets evicted, the cherished household pet also loses their home. Sometimes tenants are able to obtain free legal representation in their dispossessory, but most Georgia tenants are unrepresented in the eviction process and face displacement. This leads to increased pet surrender to already-overcrowded shelters, where euthanasia may be the outcome.

Paws Between Homes is determined to do its part to avoid this result. The organization is run almost entirely by volunteers and, due to resource limitations, it currently serves clients only inside the I-285 Perimeter—though fosters can reside elsewhere. Even with that geographic restriction, the rescue has a lengthy waiting list of dogs and cats seeking foster homes. In addition to helping tenants facing housing loss, the rescue has also fostered pets for people receiving in-patient medical and mental health care and substance abuse treatment. Paws Between Homes' leaders hope to see similar safety-net foster groups spring up around the state and have made sharing their template and experience with others a key part of their vision.

Because of their expertise, influence and resources, lawyers can play a critical role in keeping pets with the people who love them. They can provide legal information, advice or more extensive representation to people facing eviction or whose landlords violate pet policies or refuse to provide reasonable accommodations. They can foster a pet for Paws Between Homes or similar organizations, like Ahimsa House, which provides safety-net fostering for the pets of Georgians escaping domestic violence. And they can assist in other ways—by donating, transporting pets or sharing information about the issue in their professional and personal networks.

Anyone who has seen a homeless person with a dog understands that pets provide a level of companionship that people often cling to through extreme crises—like Tracy, who lived in her car with Ladybug and Cinder until Paws Between Homes stepped in. Three months later, Tracy secured new housing and celebrated a tearful reunion with her pets.

Lawyers are helpers, first and foremost—and the beneficiaries of our help may be animals as well as humans. Members of our profession are encouraged to reach out to Paws Between Homes or other local rescue organizations to learn more about how they can share their skills and compassion in service of those who have no voice. ●



Cole Thaler is the managing attorney of Atlanta Volunteer Lawyer Foundation's Saturday Lawyer Program and president of Paws Between Homes' Board of Directors. He believes that knowledge is power; that small acts of kindness make a big difference; and that we must strive for our vision of liberation, even when it feels unattainable. Thaler shares his home with his husband and a friendly pack of rescue dogs and cats.

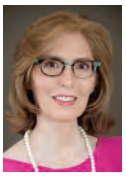
Endnotes

1. Last names have been withheld to protect privacy.
2. https://www.pawsbetweenhomes.org.
3. The federal Fair Housing Act is codified at 42 §§ U.S.C. 3601 – 3619.
4. https://metroatlhousing.org/atlanta-region-eviction-tracker/.
5. https://www.humanesociety.org/resources/increasing-housing-options-renters-pets.

TO PLACE AN ANNOUNCEMENT
Contact Jada Pettus | jadap@gabar.org | 404-527-8736

Kudos

Miller & Martin announced the celebration of the firm's 25th anniversary since opening its Atlanta office. The Atlanta office boasts almost 40 of the firm's 120-strong team of lawyers. The rest are located at the Chattanooga headquarters as well as offices in Nashville and Charlotte. As part of the firm's 25th anniversary celebration in Atlanta, Miller & Martin hosted food and fundraising drives for the Atlanta Community Food Bank.



Baker Donelson announced the admission of senior managing shareholder Linda A. Klein as a fellow of the American College of Construction Lawyers, a national organization of lawyers who have demonstrated skill, experience and high standards of professional and ethical conduct in the practice of construction law. The American College of Construction Lawyers is an invited association of construction law practitioners, professors and judges. Founded in 1989, its mission is to improve and enhance the practice and understanding of construction law and to promote the positive role of lawyers as "friends of the project."

The firm also announced that they have achieved Mansfield Certification Plus status, a structured certification process designed to ensure all talent at participating law firms has a fair and equal opportunity to advance into leadership. Mansfield, a project of Diversity Lab, is focused on broadening the talent pool for consideration, including those historically underrepresented in the legal profession, to facilitate transparent pathways to leadership. To achieve Mansfield Certification, law firms implement a behavioral science and data-driven approach—designed by talent experts, data scientists and lawyers—to help increase diversity in leadership. In addition, as part of the certification process, law firms work to enhance transparency related to leadership roles, advancement processes and compensation policies. Mansfield Certification Plus is an added designation reserved for firms that voluntarily measure the outcomes of their inclusive processes and have achieved positive results.

Additionally, the firm received the Pro Bono Award from the National Homelessness Law Center (the Law Center) in recognition of the firm's longstanding advocacy for America's homeless population. The award was presented by the Law Center at the 2023 Human Right to Housing Awards. The Pro Bono Award honors one exceptional partner who exemplifies the Law Center's commitment to ending and preventing homelessness. The Law Center recognized Baker Donelson for various contributions, including significant pro bono legal research on the relevant laws and policies that have informed multiple annual iterations of the State Index on Youth Homelessness, which the Law Center publishes with True Colors United.

FordHarrison LLP announced that it was named a 2023 Compass Award winner by the Leadership Council on Legal Diversity (LCLD). The Compass Award recognizes law firms and corporations that show a strong commitment to building more diverse organizations and a more inclusive legal profession. The Compass Award recognizes those individuals and organizations that fulfill all of the following requirements in a single calendar year: member (managing partner/general counsel) engagement with LCLD, nomination of an LCLD fellow/pathfinder and participation in an LCLD pipeline program.

On the Move

IN ATLANTA



DUEDALL



ELMANKABADY



MADDALENI

Baker Donelson announced the addition of Mark I. Duedall and Mina A. Elmankabady as shareholders and Gregory C. Maddaleni as an associate. Duedall concentrates his practice in bankruptcy and insolvency issues, with an emphasis on advising clients in matters related to consumer and household products, retail, food and beverage, mass tort, manufacturing, health care and energy. Elmankabady's practice focuses on the areas of commercial real estate, commercial leasing, corporate law, and mergers and acquisitions. Maddaleni focuses his practice on transportation litigation, including the defense of motor carriers, commercial drivers and insurance companies in catastrophic accidents. The firm is located at 3414 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.



Arnall Golden Gregory LLP announced the addition of Elizabeth B. "Beth" Davis as a partner. Davis focuses her practice on environmental and health care matters. The firm is located at 171 17th St. NW, Suite 2100, Atlanta, GA 30363; 404-873-8500; www.agg.com.



Finch McCranie announced the addition of Gabriel Knisely as an associate. Knisely focuses his practice on white collar criminal defense, high stakes business litigation and catastrophic personal injury. The firm is located at 229 Peachtree St. NE, Suite 2500 Atlanta, GA 30303; 404-658-9070; finchmccranie.com.


BORUCKI


FIELDS


HAYDEN


HYATT


KLINGER


KUBLANOW


MCCORD

Swift, Currie, McGhee & Hiers LLP announced the addition of Mason Borucki, Dahlin Fields, Sally Hayden, Trisha Hyatt, Ransom Klinger, Lane Kublanow and Sarah Grace McCord as associates. Borucki and Fields both focus their practice on litigation. Hayden focuses her practice on the defense of cases involving liability and insurance coverage disputes. Hyatt's practice focuses on matters pertaining to automobile litigation, catastrophic injury and wrongful death, commercial litigation, medical malpractice, premises liability, professional liability and trucking litigation. Klinger focuses his practice on civil litigation and the defense of insurance companies and their insureds. Kublanow concentrates her practice on matters relating to premises liability, products liability and insurance defense. McCord's practice focuses on defending automobile litigation, bad faith litigation, catastrophic injury and wrongful death, insurance coverage, premises liability and appellate cases. The firm is located at 1420 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.


RAMSAY


SMITH

Bradley Arant Boult Cummings LLP announced the addition of Rebekah Banks Ramsay and Craig Smith as associates. Ramsay's practice focuses on private equity transactions, including joint venture formation, venture capital investments, mergers and acquisitions, organization and maintenance of various types of private funds, and the handling of other general corporate matters for public and private companies. Smith focuses his practice on transactional and business matters, including mergers and acquisitions, private equity deals, joint ventures, health care, consolidations and reorganizations. The firm is located at 1230 Peachtree St. NE, Atlanta, GA 30309; 404-868-2100; Fax 404-868-2010; www.bradley.com.



Levine Smith Snider & Wilson, LLC, announced that the firm's name has been changed to Levine Smith Snider & Coburn, LLC, reflecting the addition of Paul J. Coburn as a named partner of the firm. Coburn joined Levine Smith Snider & Wilson in 2004 and has practiced family law exclusively for nearly 25 years. The firm is located at 3490 Piedmont Road NE, Suite 1150, Atlanta, GA 30305; 404-237-5700; Fax 404-237-5757; www.lssclaw.com.


GALES


MAGRUDER


PETERZELL


THORNTON

Hall Booth Smith announced the addition of Mathis L. Gales, Dylan Magruder, Michael Peterzell and Chlo'e L.Thornton, as associates. Gales focuses his practice on health care, medical malpractice, government affairs and governmental liability matters. Magruder's practice focuses on construction and general liability matters. Peterzell focuses his practice on appellate, business litigation, general liability, insurance coverage, premises liability and transportation matters. Thornton's practice focuses on defending employers in workers' compensation matters. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.


CORREA


PEREZ

Rubin Family Law announced the addition of Jamie Perez as of counsel and Joel Correa as a senior associate. Correa and Perez both focus their practice on divorce and family law matters in cases ranging from uncontested divorces to highly contested custody cases. The firm is located at 400 Interstate N. Parkway SE, Suite 1175, Atlanta, GA 30339; 770-670-7200; www.rubinfamilylawllc.com.



Parker Poe Adams & Bernstein LLP announced the addition of Traci V. Bransford as a partner. Bransford focuses her practice on transactional law with an emphasis on clients in music, television, film, literary publishing and sports. The firm is located at 1075 Peachtree St. NE, Suite 1500, Atlanta, GA 30309; 678-690-5750; www.parkerpoe.com.


BARFIELD


KASTLER


SCOTT

Hawkins Parnell & Young announced the return of Alex Barfield as partner and the addition of Jamie Kastler and Damon Scott as associates. Barfield focuses his practice on litigating and defending claims under state and federal employ ment laws, advising and counseling employers, and mediating commercial and employment disputes. Kastler's practice focuses on litigating complex and high-value cases in a wide variety of areas, such as business, professional liability, ERISA and personal injury disputes. Scott focuses his practice on defending multi-national corporations and employers, demonstrating exceptional proficiency in diverse areas, particularly transportation, commercial, and banking and finance. The firm is located at 303 Peachtree St. NE, Suite 4000, Atlanta, GA 30308; 404-614-7400; www.hpylaw.com.



The SOLACE program is designed to assist any member of the legal community (lawyers, judges, law office and court staff, law students and their families) in Georgia who suffer serious loss due to a sudden catastrophic event, injury or illness. Visit **www.gabar.org** for more information on SOLACE, or email **solace@gabar.org**.

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HAAN


HAZEN


SIMONEAUX

Friend, Hudak & Harris announced the addition of Andrew K. Hazen as a partner and Matthew D. Haan and Anne Marie Simoneaux as associates. Haan's practice focuses on business transactions, business litigation, labor and employment, corporate and real estate matters. Simoneaux focuses her practice on clients in business transactions and all aspects of general commercial litigation. Hazen's practice focuses on corporate, transactional and real estate matters. The firm is located at 3 Ravinia Drive NE, Suite 1700, Atlanta, GA 30346; 770-399-9500; Fax 770-395-0000; www.fh2.com.

IN ATHENS



Hall Booth Smith announced the addition of Emma Hamlet as an associate. Hamlet focuses her practice on general liability, governmental liability, medical malpractice and premises liability matters. The firm is located at 1022 Prince Ave., Athens, GA 30606; 706-316-0231; Fax 706-316-0111; www.hallboothsmith.com.

IN AUGUSTA


DAITCH


KITCHENS

Hall Booth Smith announced the addition of Robin Daitch as of counsel and Tyler Kitchens as an associate. Daitch focuses her practice on health care compliance, medical malpractice and other complex litigation. Kitchens' practice focuses on insurance coverage and medical malpractice matters. The firm is located at 1450 Greene St., Suite 220, Augusta, GA 30901; 706-494-2690; Fax 706-209-0364; www.hallboothsmith.com.

IN COLUMBUS



Peak Wooten McDaniel & Colwell LLP announced that John Flowers joined the firm as an associate. Flowers' practice areas include trucking, personal injury, product liability, wrongful death and False Claims Act/Whistleblower cases. The firm is located at 945 Broadway, Suite 200, Columbus, GA 31901; 706-460-4800; www.peakwooten.com.

IN SAVANNAH


BERLAND


CROSBY

Weiner, Shearouse, Weitz, Greenberg & Shawe, LLP, announced the addition of Logan Berland and John Thomas Crosby as associates. Berland focuses her practice on business litigation and civil litigation. Crosby's practice focuses on the areas of real estate and corporate law. The firm is located at 14 E. State St., Savannah, GA 31401; 912-233-2251; Fax 912-235-5465; www.wswgs.com.

IN SMYRNA, GA


CURLES


STEWART

Blue Sky Law announced the addition of Jason Curles as a partner and Phillip Stewart as a senior associate. Curles focuses his practice on business and commercial litigation, business and partnership disputes, residential construction litigation, and banking and special asset litigation, including foreclosure confirmation. Stewart's practice focuses on structuring, negotiating and drafting a wide range of commercial, corporate, intellectual property and real property agreements. The firm is located at 4045 Orchard Road, Building 400, Smyrna, GA 30080; 678-496-9800; www.blueskylaw.com.

IN TUCKER



Evolve Family Law, LLC, announced the addition of Hallie Willis as an associate. Willis focuses her practice on family law, including but not limited to divorces, child custody and support modifications, contempts, legitimations, and prenuptial and postnuptial agreements. The firm is located at 3554 Habersham at Northlake Road, Tucker, GA 30084; 404-909-8300; www.evolvefamilylawga.com.

IN ST. THOMAS, U.S. VIRGIN ISLANDS



Ogletree, Deakins, Nash, Smoak, & Stewart, LLC, announced the addition of Michael R. Francisco as associate. Fransisco focuses his practice on employment litigation. The firm is located at The Tunick Building, 1336 Beltjen Road, Suite 201, St. Thomas, USVI 00802; 340-714-1235; www.ogletree.com.

Announcement Submissions

The *Georgia Bar Journal* welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Learn more at www.gabar.org/newsandpublications.

To place an announcement, please contact Jada Pettus at jadap@gabar.org or 404-527-8736.

Preparation or Coaching?

On the one hand, a lawyer who does not prep a client before the client testifies has probably not acted competently. On the other hand, scripting questionable testimony or encouraging a witness to "forget" inconvenient details, is unethical. What's a lawyer to do?

BY PAULA FREDERICK

"Look closely at the screen while I ask this next question," your co-counsel texts you. "I think opposing counsel is sending responses to her client!"

Sure enough, the deponent looks down as soon as she hears the next question, and her lawyer, also visible in the Zoom gallery, seems to be texting furiously. Eventually the deponent looks up and recites a perfect, lawyer-scripted response to your question.

"Hmmm ..." you admit to co-counsel. "Sure looks like it ... But we're texting too! They might be talking about lunch."

You decide to take the bull by the horns. "You already testified that you met with your lawyer to prepare for this deposition," you begin. "I also need to ask whether she is helping with your answers today?"

On the one hand, a lawyer who does not prep a client before the client testifies has probably not acted competently. On the other hand, scripting questionable testimony or encouraging a witness to "forget" inconvenient details, is unethical.

What's a lawyer to do?

A recent ABA Formal Opinion, The Ethics of Witness Preparation,[1] might help. It describes the balancing act that a lawyer must navigate between essential witness preparation and improper witness coaching.

The opinion includes a laundry list of activity that is proper for competent witness prep, including reminders about the importance of being truthful, reviewing documents that are likely to be introduced and responding to questions that will elicit harmful information.

Examples of unethical coaching include the obvious: counseling a witness to give false testimony or advising a witness to engage in conduct that would violate a court order regarding discovery. The opinion includes numerous citations to cases where scripted and programmed testimony have been challenged, with some deemed OK and some deemed problematic, to help brighten the blurry line between acceptable and unacceptable conduct.

Finally, there are helpful suggestions for preventing misconduct in the context of remote proceedings, including protocols for remote depositions and the use of cross-examination to uncover when coaching has occurred. Plan in advance to prevent problems and to develop a strategy for dealing with the unexpected. ●



Paula Frederick

General Counsel
State Bar of Georgia

paulaf@gabar.org

Endnote

1. ABA Formal Opinion 508, Aug. 5, 2023.



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6

Earn up to **six** CLE credits for having your legal article published in the *Georgia Bar Journal*. Contact jenniferm@gabar.org to learn more.

State Bar of Georgia

Attorney Discipline Summaries

Aug. 16, 2023, through Oct. 11, 2023

BY LEIGH BURGESS

Disbarments

Susan Janette Lopez
2500 Dallas Highway, Suite 202
Marietta, GA 30064
Admitted to the Bar 2014

On Aug. 16, 2023, the Supreme Court accepted the petition for voluntary discipline filed by attorney Susan Janette Lopez (State Bar No. 917332) in which she sought to voluntarily surrender her license to practice law, which is tantamount to disbarment. In her petition, Lopez, who has been a member of the Georgia Bar since 2014, admitted that on May 9, 2023, she entered a guilty plea in the Superior Court of Cobb County to one count of aggravated stalking, which is a felony. She acknowledged that by this conduct, she violated Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct for which the maximum penalty is disbarment.

Ryan Curtis Cleveland
6865 Five Forks Road
Boston, GA 31626
Admitted to the Bar 2005

On Oct. 11, 2023, the Supreme Court of Georgia disbarred attorney Ryan Curtis Cleveland (State Bar No. 142377) from the practice of law in Georgia. Two disciplinary matters came before the Court on two Notices of Discipline filed by the State Bar of Georgia's Disciplinary Board. The notices arose out of Cleveland's misconduct in the representation and abandonment of eight clients. Cleveland, who was admitted to the State Bar in 2005, was already suspended as a result of his failure to respond to the Notice of Investigation underlying cases S23Y0688 and S23Y0560. Additionally, Cleveland received a formal letter of admonition in January 2022 for similar misconduct.

Cleveland was properly served with the Notice of Discipline in each matter but failed to file a Notice of Rejection in either case; therefore, he was in default and waived his right to an evidentiary hearing. By virtue of his default, the facts alleged in the notices were deemed admitted. In the matter underlying State Disciplinary Board Docket (SDBD) No. 7679, a client hired Cleveland in August 2019 to represent him in a divorce and custody case and paid Cleveland a $2,600 retainer. The client asked Cleveland to seek a temporary parenting plan so that he could have visitation with his daughter, whom he had not seen since June 2019. Cleveland failed to file any pleadings or motions in the client's case; failed to conduct discovery; refused to communicate with the client despite the client's repeated attempts; failed to notify the client that a final bench trial had been scheduled in August 2022; and failed to return the unearned fee. With regard to each of the other seven matters, Cleveland was assigned to represent an indigent defendant pursuant to a contract with a county's public defender office. Cleveland failed to communicate with the clients, who were all incarcerated; failed to respond to requests for information from the clients and their families; failed to file any substantive pleadings or motions for bond in the clients' cases; and repeatedly misled one client and the client's family about the status of the client's case. Additionally, Cleveland failed to notify his clients or the trial courts that he was suspended from the practice of law in January 2023 and was no longer able to represent them.

Based on these facts, the Board found probable cause to believe that Cleveland committed a single violation of Rule 1.5 and multiple violations of Rules 1.1, 1.2, 1.3, 1.4, 1.16 (a) and (c), 3.2, 8.4 (a) (4) and 9.3 of the Georgia Rules of Professional Conduct. The maximum penalty for a single violation of any one of Rules 1.1, 1.2, 1.3 and 8.4 (a) (4) is disbarment, while the maximum penalty for a single violation of any one of Rules 1.4, 1.5, 1.16, 3.2 and 9.3 is a public reprimand. The Court agreed with the Board's determination that the following factors should be considered in aggravation of discipline: Cleveland's prior disciplinary record; his pattern of misconduct; his commission of multiple offenses; the vulnerability of his clients; his substantial experience in the practice of law; and his indifference to making restitution to the client in SDBD No. 7679. The Court did not identify any factors in mitigation. The Court concluded that disbarment was the appropriate sanction and was consistent with the sanction imposed in similar cases.

Suspension

Robert Mallory Crawford
P.O. Box 350
Concord, GA 30206
Admitted to the Bar 1987

On Sept. 19, 2023, the Supreme Court suspended attorney Robert Mallory Crawford (State Bar No. 194192) for a period of three years. Two disciplinary matters came before the Court, both arising from an incident in which Crawford, who has been a member of the State Bar since 1987, obtained funds from the registry of the court on which he served as a judge, under circumstances that demonstrated he was not entitled to the funds. In Case No. S22Y0631, Crawford was charged with a violation of Rule 8.4 (a) (3) of the Georgia Rules of Professional Conduct (GRPC) based on his first-offender Alford plea to a misdemeanor count of theft for his conduct in obtaining the registry funds. In Case No. S23Y0279, Crawford was charged with having violated the following provisions of the GRPC for his mishandling of client funds and dishonest conduct: Rules 1.5, 1.15 (I) (a), 1.15 (I) (c), 1.15 (I) (d), 1.15 (II) (a), 1.15 (II) (c) and 8.4 (a) (4). The Court imposed the three-year suspension based on Crawford's violation of the Rules in Case No. S23Y0279 and declined to consider the merits of Case No. S22Y0631.

Crawford was previously the subject of a judicial discipline proceeding and the allegations in that proceeding regarding his underlying conduct were largely the same as those at issue in this matter—namely, that Crawford "'impermissibly convert[ed[money from the registry of the Superior Court of Pike County ... when he ordered the Pike County Clerk via handwritten note to disburse $15,675.62 in funds from the court registry to him via check' and 'then cashed and used a portion of the check for his personal benefit and deposited the remainder of this money in his personal checking account.'" In that matter the Court ultimately declined to answer the question of whether clear and convincing evidence supported a finding that Crawford violated the Code of Judicial Conduct because Crawford voluntarily resigned his office.

The special master in this matter entered an order consolidating the two proceedings and setting an evidentiary hearing. The hearing was held and the parties filed motions and briefs, after which the special master issued a report and recommendation. The special master's report addressed and rejected several general legal objections raised by Crawford and provided findings of fact and conclusions of law as to each of these disciplinary matters, ultimately determining that the evidence established that Crawford had committed each of the charged violations of the GRPC except Rule 1.5. The special master then conducted an extensive analysis of the appropriate discipline and recommended that Crawford be disbarred. In the matter underlying Case No. S23Y0279, Crawford filed exceptions to the special master's report seeking review from the Bar's Review Board. After the Bar filed a response, the Review Board issued its report and recommendation, in which it agreed with the special master's analysis and conclusions, except the Review Board ultimately concluded that the appropriate discipline was a three-year suspension.

"He who is his own lawyer has a fool for a client."

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Ethics dilemma?

Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741 or toll free at 800-682-9806, or log in to www.gabar.org and submit your question by email.

State Bar of Georgia

In his report, the special master laid out the underlying facts as follows. In August 2002, Crawford was hired by D.C. and B.W. to answer a summons in a foreclosure action seeking a writ of possession which concerned a property that was titled to another individual, A.T. Crawford filed a complaint for redemption of a tax deed in the Pike County Superior Court on Sept. 12, 2022. The next day, the court entered an order staying the writ of possession until a hearing could be held on the redemption complaint, but apparently, no hearing was ever held. In connection with the filing of the redemption action, Crawford deposited into the court's registry $15,675.62 on behalf of D.C. and B.W. The $15,675.62 was composed of a $9,675.62 overage collected by the tax commissioner at the tax sale and cash provided by D.C. Although Crawford acknowledged at the hearing before the special master that there was an unresolved issue regarding whether the overage funds belonged to A.T. or D.C., Crawford signed the receipt for the overage funds as A.T.'s "attorney-in-fact," apparently because D.C. presented Crawford with a power of attorney from A.T., although Crawford did not represent A.T. Crawford did not have a written fee agreement with D.C. or B.W., but he maintained that he had an oral agreement with D.C. to the effect that, if Crawford kept D.C. from being removed from the property during D.C.'s life, Crawford could keep the money in the court's registry as his fee. Crawford rarely had fee agreements with clients and would not get paid until after his work had been completed, if he got paid at all; if, after completion of his work, Crawford and a client could not agree on a fee, Crawford would simply move on and forget about being paid for his work. Crawford was not paid anything for his work for D.C. and in fact paid D.C.'s filing fees. Crawford believed that, had the property been redeemed during D.C.'s life, they would have worked out a fee.

D.C. died in April 2004, and Crawford reached out to D.C.'s brother about the funds in the registry, but D.C.'s brother apparently did not want anything to do with matters concerning D.C. In September 2005, Crawford filed a motion seeking the appointment of a special master in the redemption action and listing B.W. as the executrix of D.C.'s estate. Crawford did not assert an interest in the registry funds as a fee at that time. In November 2009, a judge of the superior court entered an order dismissing the redemption complaint for want of prosecution and directing the clerk of court to pay the registry funds to the redemption plaintiffs upon their submission to the clerk of the certificate required by then-Rule 19 (now Rule 23) of the Uniform Superior Court Rules (USCR). Crawford consented to the dismissal order without speaking with B.W. and, again, did not assert at that time that he was owed any of the registry funds as a fee. The clerk of the superior court, Linda Williams, initially attempted to send the registry funds to B.W. or to someone on D.C.'s behalf, as she believed that the funds belonged to them, but she was apparently unable to find them. In 2017, Williams spoke to Crawford, who was by then a judge on the superior court, about what to do with the registry funds. The special master recounted that Williams initially testified that, although she was not sure, she thought it had been her idea to give the funds to Crawford. However, when Williams was presented with testimony that she had given in connection with the Judicial Qualifications Commissions (JQC) proceeding to the effect that it had been Crawford's idea to give him the money, she acknowledged that her prior statement had been truthful but stated that she simply did not remember at the time of these proceedings the particular details of her testimony in connection with the JQC matter. In any event, Williams stated that Crawford had not ordered her to give him the funds. Williams considered sending the registry funds to the Department of Revenue as unclaimed, and Crawford asked her, if she were to do so, to list him as the claimant. Williams stated that this was the first time that she could recall Crawford telling her that he was entitled to any of the registry funds.

On Dec. 11, 2017, Wiliams issued to Crawford a check for the full amount of the registry funds. Of those funds, $10,000 was deposited into Crawford's personal bank account, which was, at that time, overdrawn by $2,232.21. Crawford took the remaining $5,675.62, and he admitted at the hearing before the special master that he used that money for personal purposes. Thereafter, Crawford was contacted about the matter by the JQC, and, because of that conversation, he raised and returned the money in February 2018. The special master noted that Crawford acknowledged at the hearing that, in having the funds removed from the registry, he had not complied with the judge's 2009 order to file a certificate in compliance with the USCR, but he claimed that he had taken money out of the registry without a certificate before, presumably in other cases.

On the same day Crawford received a check for the registry funds, Crawford gave Williams unsigned, handwritten notes to include in the file but not to be stamped in on the docket. Crawford acknowledged at the hearing that he wrote the notes and stated that they were put into the file on the day he received the registry funds for the purpose of establishing a "roadmap" of what had happened to the funds. The notes included a brief procedural history of the redemption case, a recitation of Wiliams' actions in attempting to contact the case plaintiffs, an acknowledgement of D.C.'s death and an assertion that Wiliams would have paid the funds in 2009. The last two items in the notes stated that: (1) "[t]he funds are being returned to Robert M. Crawford," followed by two words that were crossed out but appeared to the special master to have been "to make"; and (2) "[t]hose notes cannot be filed in the case since the case has been closed for eight years, they are to be placed in the file but not recorded." The special master pointed out that the notes were not signed, did not include any mention of the funds representing an earned attorney fee for Crawford, and did not otherwise comply with the certification requirement for the withdrawal of funds under what is now USCR 23.

The special master began by addressing whether the Bar had adequately demonstrated that Crawford's conduct violated Rule 1.5. In making this determination,

the special master first considered the plausibility of Crawford's story that he was entitled to the funds as an earned fee for his work on behalf of D.C. The special master acknowledged Crawford's testimony that he was generally not paid a fee until work was completed for a client, that written fee agreements were uncommon in his practice, and that he would not collect any fee if he and a client could not reach an agreement on a fee. Nevertheless, the special master concluded that no reasonable attorney who believes that he has earned a $15,000 fee would allow that fee to sit in the registry of the court for nearly 14 years without claiming those funds or at least attempting to assert an interest in them. The special master reasoned that if Crawford had an agreement with D.C. that, if Crawford were able to keep D.C. on the property until D.C. died, the registry funds would be Crawford's as a fee (as Crawford asserted during the hearing before the special master), then the time to claim that fee was upon D.C.'s death. The special master noted, however, that Crawford did not attempt to claim or assert any interest in the funds in 2004 when D.C. died, in 2005 when Crawford filed a motion seeking the appointment of a special master in the redemptive action, or in 2009 when a judge of the superior court entered an order dismissing the redemption complaint for want of prosecution and directing the clerk of court to pay the registry funds to the redemption plaintiffs. Instead, at the earliest, Crawford did not assert an interest in the registry funds until 2017, when Williams informed him that she planned to escheat the funds to the Department of Revenue. Nevertheless, the special master concluded that, because there was not sufficient evidence in the record to determine whether, to the extent that the registry funds may have constituted a fee, such a fee was unreasonable, the Bar had failed to demonstrate by clear and convincing evidence that Crawford had violated Rule 1.5.

As to the various alleged violations of Rule 1.15 (I) and (II), the special master stated that they were premised on the facts that Crawford took the funds from the registry, placing them in his personal account and using them for his personal purposes. Although the special master acknowledged that Crawford asserted that the funds constituted an earned fee, he registered his conclusion that the record did not support such an assertion, as the only evidence that Crawford was entitled to the funds was Crawford's own post hoc statement, which was supported by no other evidence. The special master further noted that, even to the extent that Crawford believed that he had a fee agreement with D.C. that may have entitled him to some of the registry funds, Crawford acknowledged that there was uncertainty regarding whether a substantial portion of the funds had even belonged to D.C. in the first place, but that Crawford failed to seek a judicial determination to resolve that question.

The special master thus concluded that clear and convincing evidence showed that Crawford violated Rule 1.5 (I) (a) by failing to hold the funds of his client separate from his own funds in an approved institution; violated Rule 1.15 (I) (c) by failing, upon receipt of the funds from the registry, to notify and promptly deliver those funds to the client; violated Rule 1.15 (I) (d) by keeping funds in which, arguably, both he and his client had an interest and by failing to keep those funds separate until there had been an accounting; violated Rule 1.15 (II) (a) by failing to hold the funds of his client in a trust account and to administer those funds from that trust account; and violated Rule 1.15 (II) (c) by failing to place his client's funds in an interest-bearing account at an approved institution. With regard to whether Crawford had violated Rule 8.4 (a) (4), the special master concluded that the Bar failed to demonstrate that Crawford used his judicial office to obtain the funds, noting that, although there was a "stench around this transaction" and Crawford's position likely helped to enable the transaction, his actions were done as a private attorney and he had not compelled Williams to turn over the funds. The special master concluded that clear and convincing evidence did support the Bar's remaining allegations. The special master found that Crawford used deceit and misrepresentation in telling Williams that he was entitled to the registry funds, as Crawford conceded at the hearing that it was not clear whether he would have been entitled to the $9,675.62 overage from the tax sale, which was made out to A.T., not D.C. The special master noted that Crawford was experiencing financial difficulties at the time he obtained the registry funds and expressly found his explanation denying such difficulties not credible. As to Crawford's representation that Williams had urged him to take the funds, the special master found that Williams's seemingly favorable testimony on this point in these proceedings was undercut by her previous conflicting testimony before the JQC, her failure to give Crawford the funds in 2009 after the superior court's order was entered and her attempts to find B.W. over the years. The special master determined that Crawford's inclusion in the file of the handwritten notes that Crawford gave to Williams to place in the case file, purportedly for the purpose of establishing a "roadmap" of what had happened to the funds, did not demonstrate good faith on Crawford's part but instead demonstrated that Williams wanted to at least have something in the file showing some attempt to comply with the court's order.

The special master then concluded that Crawford engaged in deceit when he acquired the funds without complying with the superior court's 2009 order or the USCR. Crawford admitted that he did not comply with the certification requirement, and the special master was unmoved by his explanation that he had taken money from the registry before without the required certificate, noting that this was in clear violation of the USCR. The special master further noted that Crawford could not have complied with the relevant rule and removed the funds for himself, as he knew that other people had an arguable claim to at least a substantial portion of the funds. As to the final allegation, regarding Crawford's

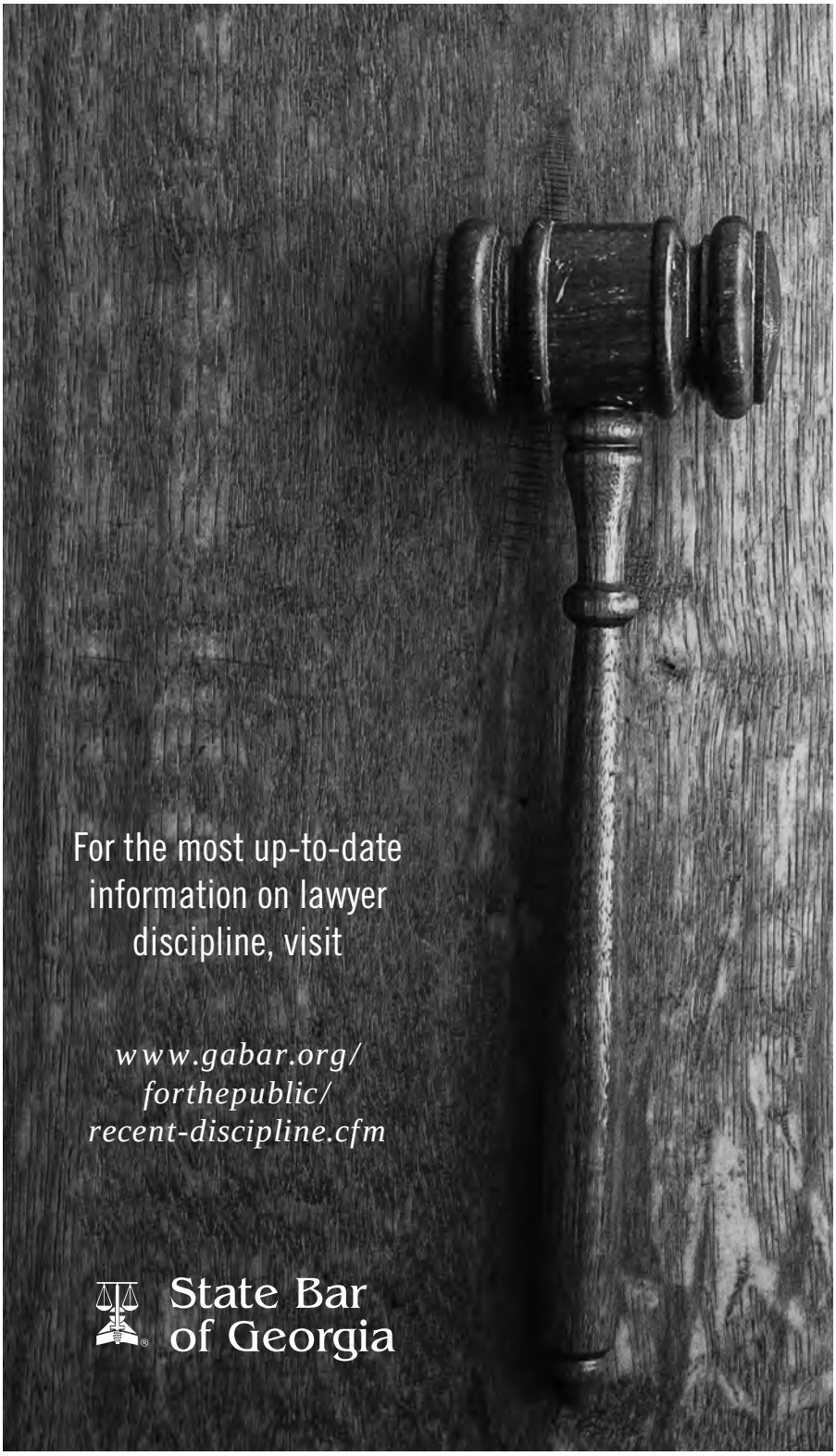
failure to notify his client, the special master acknowledged that D.C. had died in 2004 and that Crawford maintained that he had been unable to contact B.W., but nevertheless concluded that Crawford knew that others had a least an arguable claim to the funds and that Crawford eschewed seeking a judicial determination on the question of ownership of the funds, which would have allowed for delivery to clients of any funds to which they were entitled, and instead used deceit and misrepresentation to claim the funds for himself.

The special master concluded that Crawford violated a duty to his clients and the legal profession; that he acted knowingly and showed no remorse; and that, although he returned the funds to the registry, the potential injury could have been severe. In aggravation of discipline, the special master found that the record supported the conclusion that Crawford had a dishonest and selfish motive; that he refused to acknowledge the wrongful nature of his conduct; that he had substantial experience with the law, a factor which the special master found to weigh particularly heavily against Crawford especially given his service as a judge; and that he broke the law, another factor that the special master found weighed heavily against him. In mitigation, the special master noted that Crawford had no prior disciplinary history and that he made a timely, good faith effort to make restitution. The special master acknowledged that, at the time of the alleged misconduct, Crawford was experiencing financial difficulties, but he concluded that this fact simply provided an explanation for Crawford's conduct but did not mitigate its seriousness. The special master also stated that, in light of Crawford's extensive record of public service, his character or reputation should have been mitigation, but he noted that there was no evidence of Crawford's good character in the record, such that there was no mitigation on that basis.

The special master then considered and rejected three further arguments raised by Crawford, by which Crawford sought to mitigate his culpability and recommended that he be disbarred. Crawford filed a request for review by the Review Board, and the Bar filed its response. The Review Board determined that the special master's findings were supported by the record and that Crawford failed to demonstrate the findings were clearly erroneous or manifestly in error and adopted the special master's findings and conclusions of law but agreed with Crawford that a lesser sanction was appropriate and recommended he receive a three-year suspension of his license to practice law.

The Court reviewed the record and concluded that the special master did not clearly err in finding that Crawford did not have a fee agreement with D.C., such that he was not entitled to the registry funds. The Court agreed with the special master that Crawford violated Rules 1.15 (I) (a), 1.15 (I) (c), 1.15 (I) (d), 1.15 (II) (a), 1.15 (II) (c) and 8.4 (a) (4). The Court noted that the special master determined the Bar had failed to establish Crawford had violated Rule 1.5 and said it could not say the special master erred in reaching that conclusion. Although the special master recommended that Crawford be disbarred, the Court having reviewed the record as a whole concluded, as the Review Board also concluded, that in light of the fact that Crawford's violation of the GRPC, while serious, involved only a single course of misconduct, the next-most serious discipline the Court generally imposes, a three-year suspension, was the most appropriate discipline in this case. As there are no conditions on reinstatement other than the passage of time, the suspension will expire three years from the date of the opinion.





Reinstatement Granted

Andrew Matteson
350 Morning Dew Circle
Roswell, GA 30075
Admitted to the Bar 2000

On Aug. 16, 2023, the Supreme Court accepted the renewed petition for voluntary dismissal filed by attorney Andrew Matteson (State Bar No. 477140) in which he sought a six-month suspension from the practice of law nun pro tunc as of April 1, 2019, with conditions following reinstatement. In Matteson's first petition for voluntary discipline, he sought a suspension of his license to practice law for a period ranging from three months to six months as a sanction for his violations related to two disciplinary matters. Matteson previously asserted several mitigating factors, including that he had mental health conditions that contributed to his misconduct and that he made restitution to his clients who were impacted by his misconduct. The Court rejected this petition because he failed to provide proof of his mental health conditions and proof that he made his clients whole, and because he failed to assure the Court that he had taken steps to ensure that he would not commit the same type of violations upon his readmission to the practice of law. In the renewed petition, Matteson added nothing to the recitation of facts, the admitted violations or the aggravating and mitigating factors supporting his requested discipline. Instead, he addressed the concerns of the Court highlighted in Matteson I by submitting proof related to his mental health conditions and treatment, submitting proof that his clients have been made whole, and by proposing conditions on his reinstatement. He also agreed to a six-month suspension but requested that it be imposed nunc pro tunc.

With regard to the underlying facts, in the first disciplinary matter, Matteson admitted that he had represented a cli-

ent in various legal matters over several years, and that at some point he stopped apprising his client of his work and of the important developments in the legal matters; that the client eventually sued Matteson, who chose not to dispute the client's claims; that a consent judgment was eventually entered against Matteson in the amount of $86,520; and that he quickly took steps to satisfy the judgment. As to the second disciplinary matter, Matteson admitted that he agreed to represent a client and his company in a lawsuit against them for damages related to a business dispute; that, although he filed a motion to dismiss the lawsuit, he failed to take any additional material action in the case, even after a motion for default judgment was filed and granted and a significant judgment was entered against his client; that these clients pursued a legal malpractice claim against Matteson and his former law firm; that the claim was arbitrated, resulting in the issuance of an award of more than $640,000 in the clients' favor. Although in his initial petition, Matteson failed to support his assertion that his clients' claims had been resolved in full, he subsequently provided proof that he satisfied the judgments his clients obtained against him.

The Court found the facts set out in Matteson I support his admissions in his renewed petition that he violated Rules 1.2 (a), 1.4 (a), 1.15 (I) (c) and 1.16 (a) (2) of the Georgia Rules of Professional Conduct. Regarding his representation of the clients in the second matter, he admitted he violated Rules 1.1, 1.2 (a), 1.3, 1.4 and 1.16 (a) (2). The maximum sanction for a violation of Rules 1.4 and 1.16 (a) is a public reprimand, while the maximum sanction for a violation of Rules 1.1, 1.2, 1.3 and 1.15 (I) is disbarment.

Similar to his first petition, Matteson admitted no aggravating factors but offered in mitigation that he had no disciplinary record; that he lacked a dishonest or selfish motive; that he made a timely good faith effort to make restitution or to rectify the consequences of his misconduct; that he displayed a cooperative attitude toward the disciplinary proceedings; and that he was remorseful for his actions and inactions. In addition, Matteson continued to offer that, at the time of these violations, he was suffering from a mental disability or emotional problems for which he was being treated by a doctor. Unlike his first petition, however, Matteson provided, under seal, letters from several mental health professionals who treated Matteson. These letters supported his claims that he began experiencing symptoms of depression during the above-described representation; that he had been treated for depression and anxiety since 2015; that he had been relatively compliant with treatment and medication since that time; and that his mental health did not present an impediment to his practice of law. Additionally, he provided an affidavit supporting his claim that his experience with depression ultimately led him to close his law practice in 2019 and to step away from the practice of law.

Matteson further stated that in early 2019, he began advising his clients in writing that he could no longer act as their attorney and that for a six-month period beginning on April 1, 2019, he performed no legal work and had no source of income. In support of these claims, Matteson provided a copy of a letter he sent to a client in which he informed the client he was no longer able to serve as the client's legal representative because he was no longer practicing law due to personal issues, updated the client on the status of the case and offered to assist the client in finding new counsel. In addition, Matteson provided an affidavit in which he stated that from April 2019 through October 2019, he did not work at all and provided his income tax returns as evidence.

As part of his discipline, Matteson proposed that every three months in the first year following his reinstatement he be required to provide the Office of the General Counsel with an opinion from a mental health professional certifying that his mental health does not present an impediment to his practice of law; that he participate in the State Bar of Georgia's Law Practice Management Program's General Consultation service; and that he implement any recommendations made by that service during such consultation. The State Bar filed a response and stated it did not oppose the six-month suspension requested and noted the discipline requested was sufficient to serve as "a penalty to the offender, a deterrent to others and an indication to laymen that the courts will maintain the ethics of the profession." The State Bar also did not oppose Matteson's request that his suspension be imposed nunc pro tunc to April 1, 2019.

The Court agreed a six-month suspension was appropriate and ordered that, because he showed he stopped practicing from April 1, 2019, through Sept. 30, 2019, he had completed the suspension. The Court ordered that Matteson was reinstated with the conditions that, within 90 days of the date of the opinion, he provide the Office of the General Counsel with an opinion from a mental health professional certifying that his mental health did not present an impediment to his practice of law and provide an opinion every three months for the first year of his reinstatement, and that he implement any recommendations made by the Law Practice Management Program. ●



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Alternative Dispute Resolution Section Hosts 2nd Annual Conflict Resolution Day

The section held its event in October in recognition of the American Bar Association's Mediation and Awareness Week and the Association for Conflict Resolution's International Conflict Resolution Day.

BY SCOTT I. ZUCKER



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On Oct. 19, 2023, in recognition of the American Bar Association's Mediation Awareness Week and the Association for Conflict Resolution's International Conflict Resolution Day, the Alternative Dispute Resolution Section of the State Bar of Georgia hosted its 2nd Annual Conflict Resolution Day with ADR experts from around the United States. This year's program, which was attended by more than 150 lawyers, practitioners, students and other neutrals, focused on issues that impact mediators, arbitrators and neutrals—all of whom are invested in the betterment of alternative dispute resolutions systems to reduce the heavy backlog of court litigation in the country and in Georgia.

The day began with Tracy Johnson, the executive director of the Georgia Office of Dispute Resolution (GODR), presenting a proclamation from the Georgia Legislature and signed by Gov. Kemp recognizing Dispute Resolution Week in Georgia. Johnson and Hal Gray, a member of the Georgia Commission on Dispute Resolution (GCDR), presented the audience with information on the GODR and the GCDR, including how the par-



It's a great idea to join a State Bar Section.

The State Bar of Georgia's 51 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from $10-35. Join one (or more) today by visiting www.gabar.org > Our Programs > Sections. Questions? Contact Sections Director Mary Jo Sullivan at maryjos@gabar.org.

State Bar of Georgia

ticipants can become registered neutrals within Georgia.

The program continued with a session that included Ken Kendrick, Henning Mediation; Parag Shah, Miles Mediation; Hon. Gail Tusan, JAMS; and Nigel Wright, NAM, discussing "Data Analytics in Mediation," moderated by Scott Zucker, the current chair of the Alternative Dispute Resolution Section of the State Bar of Georgia. The program then included Lyle Warshauer and Hon. Randy Rich, both from Henning Mediation, discussing "Mediation: The New Way to Litigate." Next, the audience heard from Michael Eshman, Miles Mediation, and Doug Witten, Bay Mediation, on "Addressing Language Barriers in Mediation." The event continued with Justice Leah Ward Sears, NAM; Marcie Dickson, NAM; and Audrey Lee, Harvard University, discussing "Implicit Bias in Mediation" and the ways to identify and hopefully cure any problems created from such bias.

The day-long program next featured Daniel Serviansky, faculty director of the University of Georgia School of Law's graduate program in Alternative Dispute Resolution on the topic concerning "The Psychology of Mediation." The last session of the day was presented by Paul Faxon, R. Paul Faxon, LLC, from Massachusetts and Marc Sheridan, Markus & Sheridan, LLP, from New York in a panel discussion on "Collaborative Law for Commercial Cases." The day ended with concluding remarks from Shan Momin, the current vice chair of the Alternative Dispute Resolution Section of the State Bar of Georgia.

Participants responded with positive feedback regarding the variety of topics presented and the incredible quality of the programs and presenters. Special thanks to Lane Sosebee, Challie Smith and Mary Jo Sullivan from the State Bar of Georgia in helping to coordinate such an amazing day of learning. ●



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Document Automation and AI—The Smart Way to Work

This article presents ways that the Bar can help members improve their work processes through adoption of law-related document automation with generative AI software.

BY SHEILA BALDWIN

For lawyers focused on running a successful firm, document management is an area that can cause the most difficulty. Managing legal cases involves not only case-related documents, materials and communications but all the internal documents that are required because of doing business. Legal software solutions are now essential for law firms by helping to establish streamlined workflow and document management processes. This article presents ways that the Bar can help members improve their work processes through adoption of law-related document automation with generative AI software.

Document automation, sometimes referred to as document assembly in law, refers to the process of creating legal documents, such as contracts, wills, agreements, by automatically generating them using pre-defined templates and variables. It may also involve how internal business-related documents are processed. Artificial intelligence is a more recent development that involves developing algorithms that learn over time to the point that they

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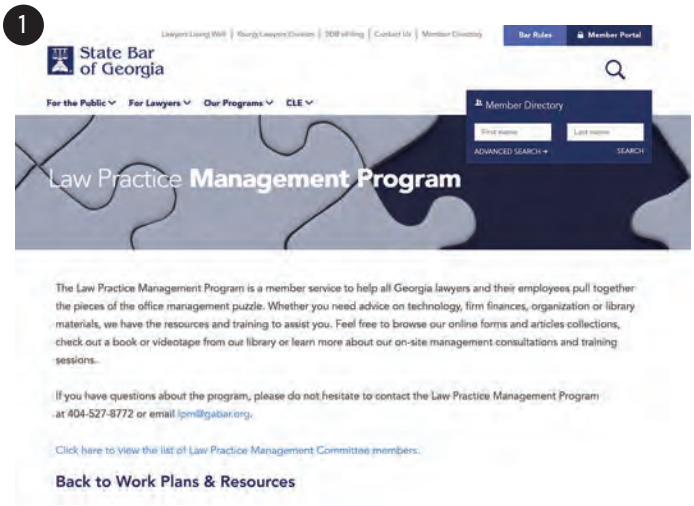

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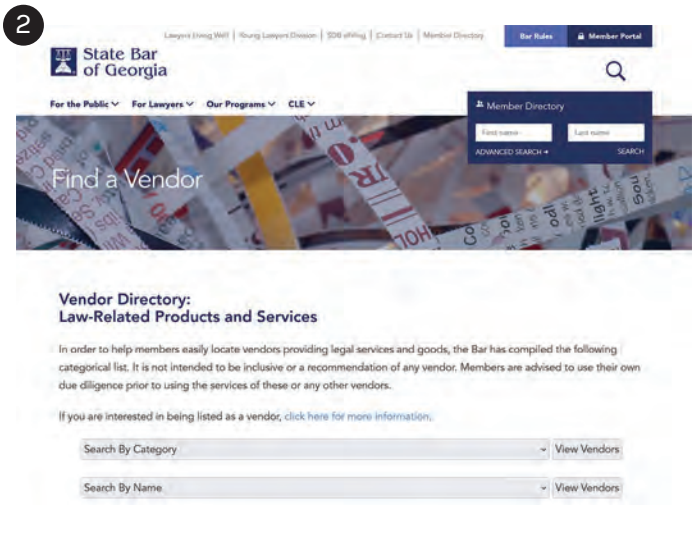

can perform complex tasks, such language processing, recognizing images and even making decisions. Advanced document automation legal software with generative AI is changing the landscape in legal software due to its time-saving capabilities and improved accuracy.

Increasingly the amount of time saved by making use of AI in document management frees attorneys to concentrate on activities such as formulating legal strategies, providing knowledgeable advice and drafting complex agreements. You may already use AI in the form of electronic signatures, online intake forms and queries, or firm workflows, and internal operations such as HR and IT. Technology is embedded into most parts of our lives. Lawyers are often hesitant to adopt new technology but being over cautious can prevent firms from taking the steps needed to ensure greater client satisfaction and your law firm's future security.

Law Practice Management Program

Members of the State Bar of Georgia have access to the Law Practice Management Program, created to help members successfully set up, run and close their law firm. Law-related technology plays a big role in creating and sustaining a flourishing business. General and technology consultations are offered by this program. The general consult involves an evaluation of the existing processes one uses to run their firm presented in a report with assessments and recommendations. The technology consult advises members on tools and software or any related technology that will assist them in running a successful firm. A consultation may be helpful in your quest to find better processes and technology for your firm. You can find out more about consultations on the State Bar's website by visiting www.gabar.org/lpm (see fig. 1).

Vendor Directory

The Bar's Vendor Directory is another resource to help you further your goals. You can find it on the Bar's website at www.gabar.org/vendordirectory (see fig. 2). AI supported software that includes document automation are found in the directory and often have a lifetime discount. This is a list of current products by category that offer discounts to our members and have been vetted by product review sites.

Practice Management

- Caseroads
- Clio
- Cosmolex
- EasySoft
- MyCase
- nulaw
- Rocket Matter
- Smokeball
- Tabs3

Document Management and Automation

- AXEL Go
- CASEpeer
- LawYaw
- Lilo

Productivity

- Faster Law
- TimeSov

Marketing

- LawRuler
- Omnizant

AI is here to stay. Many unknowns exist but taking time to investigate advanced technology is worthwhile. If you have a desire to practice law with increasing efficiency and effectiveness, investigate AI-powered legal tools and start with the areas of your practice where this investment would be most beneficial. Check out the resources provided by our team by going to www.gabar.org/lpm to find the Law Practice Management Program offerings. There you will find a link to our Resource Library with a plethora of the best books written on legal technology. Read articles or blogs written by innovators of legal technology, attend the ABA TECHSHOW using our special Bar discount (see the ad on page 39), join with fellow State Bar members and come to one of the events sponsored by the Law Practice Management Program such as our Solo & Small Firm Conference to take place on Sept. 26 -27, 2024, or a Convos and Cocktails quarterly event held at a local restaurant or distillery where you can connect to other like-minded attorneys for a free and fun evening. To stay informed follow, us on Instagram @gabarlpm or sign up for our newsletter by reaching out to me at sheilab@gabar.org or 404-526-8618. ●



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What Good Is Stress? Rethinking Our Relationship With Stress to Harness Its Benefits

What if how we relate to stress can actually change how it affects us?

BY SAMANTHA MULLIS AND PLAMEN RUSSEV

Stressed. Lawyers. In many ways the two words are synonymous. We shoulder the problems of our clients who are facing issues that may impact their livelihood, family or personal freedom. The fact that lawyers are stressed is unsurprising and certainly not new. Yet, our relationship with stress is complicated. Even if we have accepted it's a part of our job, we still mostly hate it and may even believe it's slowly killing us, so we're constantly looking for ways to battle or banish it. But what if we didn't have to have a completely toxic, one-sided, reactive relationship with stress? And what if how we relate to stress can actually change how it affects us?

What Is Stress and Why We Stress About It

The World Health Organization defines "stress" as a state of worry or tension caused by a difficult situation. Stress is a natural human response that forces us to meet challenges and address threats in our lives. Stress is not a fixed experience and depends on our perceived resources and capacity to deal with the threat or challenge when it arises. It's important to realize that stress, and our responses to it, are uniquely individual. No two persons have the same stressors, nor do they experience or respond to stressful situations the same way.[1]

Now, a certain amount of stress is inevitable and even necessary in our daily life. Beyond helping us avoid immediate threats, such as an oncoming car or a rattlesnake, stress is simply our bodies telling us there is a situation that must be dealt with so that we can address it and move on. As lawyers, think about how often our stomachs have growled as we skipped lunch, pushing through to finish a brief, or how much we have delayed using the restroom just trying to finish discovery responses. Ignoring our body's signals that we need to perform normal human functions can trigger stress, letting us know that our body is in need of something like food, rest, a bathroom break. Stress, and its resulting symptoms, is our body telling us that something important needs to be taken care of. If the task or issue was unimportant, we wouldn't stress about it.

However, most of us see stress as unhelpful and exhausting. We are bombarded with messages that too much stress can cause a myriad of mental and physical health problems. We've been admonished to reduce our stress for as long as we can remember. From our first days in law school, we start hearing (and promptly experiencing) that the very nature of our profession leads to high anxiety, depression, substance abuse and suicide rates—which reliably raises our stress level. As the intensity and duration of our stress increase, we become more worried about its negative effects. No wonder we make it our goal to avoid, reduce or even eliminate stress from our lives. But the more we are unable to do so, the more stressed we become.

At this point we know our relationship with stress may be toxic. It's like that needy "friend" you keep giving to and who keeps taking—your energy, your patience, your sense of peace. You know something needs to change, but how do you reshape your relationship with stress?

Stress Is Not an Enemy

Apparently, it starts with our thoughts. A number of recent studies turn our current understanding of stress on its head by showing that the way we think about stress significantly shapes the way it affects us. In one such study, persons who rated their stress as high and believed that stress was harmful to their health had a 43% increased chance of dying prematurely. The study also found that persons with low stress who still thought stress was harmful to their health had a greater increased risk than those individ-



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uals with high stress who did not believe that stress was harmful to their health. In fact, the latter group had the lowest risk of death of anyone in the study, even lower than those who reported very little stress. The researchers concluded that it wasn't stress alone that was killing people but the combination of stress and the belief that stress is harmful. Shockingly, the study purports that over its eight-year duration, 182,000 U.S. adults may have died prematurely because they believed that stress was harming their health.[2] Many other studies show that how we think about stress affects everything from our cardiovascular health to our ability to find meaning in life. It turns out the best way to manage stress isn't to reduce or avoid it, but rather to rethink and even embrace it. The most effective intervention is to invite a constructive interpretation of stress, reframing it from a harmful to a helpful experience that mobilizes energy to meet the demands of a situation where something we care about is at stake.[3]

This new science shows that it isn't conducive to battle or push against stress. Just like a yoga instructor tells you to breathe into the dreaded pigeon pose, instead of resisting the stretch. Similarly with stress, we need to approach the symptoms of stress with this new understanding. By acknowledging, or accepting, the stress symptoms we are able to address the situation that is causing the stress sooner than if we just got hung up on how the stress makes us feel. After all, the stressful situations—the work (that we love), the family (whom we adore), the *life*—will always be there. And, paradoxically, higher levels of stress seem to go along with the important things we want: love, health and satisfaction with our lives.

Working With—Not Against—Stress

After adopting this new perspective, the next step in changing from reactive to proactive relationship with stress is to conduct a personal "stress inventory." This allows you to use the information stress is providing by identifying your typical stressors or triggers and how you usually respond to them. Common sources of stress are lack of sleep, our relationship with food, exercise (or lack thereof), our electronic devices, work and our relationships with people.

As you conduct your stress inventory, reflect on whether you experience long, sustained stress rather than short-term stress. As we discussed earlier, our stress symptoms—the increased heartrate, constricted blood vessels and adrenaline hormone response—are normal and even helpful. This response is temporary during acute short-term stress, such as meeting deadlines or slamming on your car brakes to avoid an accident.

If your stress response continues after a short-term trigger is gone, or if you experience chronic stress over long periods of time without any obvious trigger, you need to assess honestly if you are meeting your basic needs. Not attending to our basic needs, such as rest, nutrition, and movement, keeps our nervous system in a constant state of stress, which depletes our energy stores even more and feeds the stress loop. Identify which stressors are within your control and outline steps to address the underlying needs causing them. If you cannot control a stressor, can you find any positive way of relating to it? What makes you care about that stressor? (Remember, if you didn't care, you wouldn't stress.) Does it challenge, and thus actually reaffirm, any of your basic values, such as fairness, freedom or family?

After you conduct your stress inventory, reach out to a trusted friend or family member to see if they see your stress triggers the same way. Reaching out to people is key. First, they may see something you don't and may shed light on your personal blind spot. Ask them to



Georgia Lawyers Helping Lawyers (LHL) is a confidential peer-to-peer program that provides colleagues who are suffering from stress, depression, addiction or other personal issues in their lives, with a fellow Bar member to be there, listen and help.

If you are looking for a peer or are interested in being a peer volunteer, visit **www.GeorgiaLHL.org** for more information.

GEORGIA LAWYERS HELPING LAWYERS

support you in addressing stressors you control or relating better to those you don't. Second, reaching out to someone else provides us with human connection that we need. Humans, including lawyers, are social creatures, even if they are introverts, who may just need less or different human interaction than extroverts. Reaching out to someone regarding your stress allows you to connect with others, receive help and expand your support network. Crucially, it safeguards against our deeply ingrained tendency as lawyers to figure it all out on our own, which can become dangerous when self-help is neither adequate nor appropriate for the challenge we are facing.

Transforming Stress One Action at a Time

You have conducted your stress inventory, and you have a list of everything that stresses you out, and now the fact that you have a list of stressors is causing more stress. Great, now what?

We have routines in our lives and practices that we complete every day. We know exactly how to handle a new file. Just as we know to check whether the baby is hungry, tired or in need of a diaper change to address why he is crying. At this point our response to stress is routine, and we likely don't even think about it.

Forty percent of our daily actions are based on habit.[4] Our brain is programed to hardwire everything that we do repeatedly. We have likely been responding to stress the same way for years, decades or our entire life. Our stress response is literally hardwired into our brains so that our brain circuitry naturally activates in its established way when presented with stress. Now that we know that how we think about stress affects our health, and we have identified our stressors, how can we change our experience of stress?

Our response to stress is a habit, and changing habits is hard. Period. To create a new habit, our brain must override its default wiring and create a new response to the triggering (stressful) situation. To override the default wiring, it is helpful to create and maintain intentional, structured responses to help form new habits. The new structured responses will be personal to each individual, just as our stress triggers are personal.

Eliminating all stressors will never happen, and striving to do so is unrealistic. Just as unrealistic it is to tackle all of your stressors at once. You may have heard that "you eat an elephant one bite at a time." You reshape your relationship with stress by addressing one trigger at a time. Pick one stressor to work on. Make it small, make it manageable.

For example, try standing while working at your desk for 10 minutes a day to increase your activity. Or turn off notifications and stop checking your email or social media 30 minutes earlier than you normally would, and work up to fully disconnecting about two hours before going to bed. This allows your nervous system to wind down so that you can get more restful sleep and protect yourself from overstimulation. Take notice if the proactive change you are making is working, and if it affects multiple areas of your life—e.g., better sleep leads to better nutrition and more energy for exercise (creating a "virtuous cycle"). See what we did there?

Recognize that, depending on the need and your capacity to address it, you may need help to make changes. If you cannot make changes on your own, or don't know where to start, reach out to someone. Lean into your network of support, a friend, spouse, therapist, coach.

Finally, allow yourself grace and space to reshape your relationship with stress—at least now you know it's possible. The hardwired circuits of our responses to stressful situations will not change overnight, nor should we expect it. With intention, discipline and help, we can change our relationship with stress so that we are healthier and happier. ●



Samantha Mullis is an assistant general counsel for Augusta University. She is a reformed litigator having previously worked as an insurance defense associate for a midsized, regional firm in Atlanta. Samantha is married to another member of the Bar, Justin Mullis, who is a prosecutor in Richmond County. They are parents to two boys ages three and 10-months, and they own a retired racing greyhound, Harvey. As for wellness, she is an avid reader and a fair-weather runner who is currently "training" for a half-marathon. You can also catch her on spin bike number 12 at the local spin studio.



Plamen Russev is a practicing attorney with 20 years of experience in technology, corporate and financing transactions and more than 10 years as a certified Integral Coach and breathwork practitioner. He is a member of the Lawyer Assistance Program and the Attorney Wellness Committee of the State Bar of Georgia and has served as chair and co-chair of its Mental Well-Being Subcommittee. He has developed, facilitated and collaborated in mindfulness and well-being seminars and series for attorneys and law students, and provides breath and stress coaching to individual and groups.

Endnotes

1. *See* https://www.who.int/news-room/questions-and-answers/item/stress.
2. *See* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3374921/.
3. *See* Kelly McGonnigal, *How to Make Stress Your Friend*, TED on YouTube (Sep. 4, 2013), https://www.youtube.com/watch?v=RcGyVTAoXEU; *see also*, Kelly McGonigal, The Upside of Stress: Why Stress Is Good for You, and How to Get Good at It, Avery (2015).
4. *See* Bri Flynn Witthuhn, *The Neuroscience Behind Habit Change*, Forbes (Feb. 11, 2020), https://www.forbes.com/sites/ellevate/2020/02/11/the-neuroscience-behind-habit-change/.

Making Words Count

As legal writers, we know that we need to make the words we use count—both literally and figuratively.

BY DAVID HRICIK AND KAREN J. SNEDDON

A recent federal judge reminded us that legal writers need to make each word count and adhere to word counts and formatting requirements. The parties sought clarity from the court as to what "double spacing" refers to.[1] The parties debated whether the standard double-space setting could be altered.[2] If altered, 27 lines of text rather than 23 lines of text could appear on each page. Chief District Judge Sheryl H. Lipman denied the motion and stated, "The Court further notes that the last thing any party needs is more words on a page ... the Parties are encouraged to spend their valuable time focusing on the merits of this case, and certainly not figuring out how many sometimes-useless words will fit on a page."[3]

While manipulating formatting may allow a writer to include more words per line and more lines per page, writers should refrain from formatting gimmicks—especially those which violate court rules. This installment of "Writing Matters" shares five strategies to ensure that you can convey a message without manipulating formatting.

1 Prioritize Content

Whether an appellate brief or email, there is always more information that can be included in a text. Legal writers must prioritize the content to include only that which is relevant and meaningful for the audience to achieve the purpose of the text. Eliminating marginal arguments in an appellate brief allows for the robust development of critical arguments. Highlighting the range of options in an advice letter should reflect the client goals. Include the content that matters—and nothing more.

One way to do this is carefully examine each footnote. Placement of text in a footnote may indicate that it is, at best, only marginally relevant. Consider deleting footnotes to prioritize text.

2 Favor Active Voice

Active voice helps the writer construct strong sentences. With active voice, the grammatical subject of the sentence is the actor (i.e., the person or thing) in the sentence that performs the action of the sentence. *The court decided the case on Dec. 1.* Passive voice flips the construction. *The case was decided by the court on Dec. 1.* Notice that the court, the party performing the action, is shifted from the lead of the sentence to its middle. While the passive voice construction adds just two additional words, those extra words can force a writer to cut key content to make the word count.

One way to spot passive voice is to spot nominalizations. We turn there next.



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3 Limit Nominalizations

Verbs are the strongest part of speech. When a writer converts a verb into a noun, the writer may be injecting clunky nominalizations into a text. *The professor made a recommendation that the student revise the assignment* could be revised to *The professor recommended that the student revise the assignment.* Eliminating the nominalization saves two words.

A simple strategy to spot nominalizations is to look for words ending in "ion." They are often nominalized verbs.

4 Streamline Clunky Phrases

Avoid using more than one word when one word will convey the same information just as effectively. These examples show a clunky phrase with its streamlined counterpart.

Clunky	Streamlined
afford an opportunity	let, allow
along the lines of	like, as in
as a consequence of	because
at the present time	now
due to the fact that	because
each and every	each or every
examined carefully	examined
for all intents and purposes	because
glanced briefly	glanced
in the event that	if
in order to/in order for	to/for
is a reflection of	reflect
it is necessary that	must
past memories	memories
sudden crisis	crisis
take into consideration	consider
true facts	Facts
unexpected surprise	surprise

5 Trim Modifiers

Modifiers, specifically adverbs, are tools to amplify, emphasize or clarify meaning. Empty modifiers bloat a text. Think of words like *clearly, obviously, indeed, quite, really* and *very.* Trim the empty modifiers to showcase the key content of the text.

A simple strategy to trim modifiers is to look for words ending in "ly." They are often unnecessary modifiers.

Conclusion

Selecting a font or altering the line spacing should be intentional decisions that adhere to court rules and organization expectations. Formatting should not be used as a gimmick to cram more words per page. As legal writers, we know that we need to make the words we use count—both literally and figuratively. ●



David Hricik is associate dean of research and development, and a professor of law at Mercer University School of Law.



Karen J. Sneddon is dean and professor of law at Mercer University School of Law.

Endnotes

1. *Defendants' Motion to Require Adherence with Formatting Requirements of Local Rule 7.1, Jones v. Varsity Brands LLC,* Case No. 2:20-cv-02892-SHL-tmp (W.D. Tenn. Oct. 19, 2023).
2. *Plaintiffs' Opposition to Defendants' Motion to Require Adherence with Formatting Requirements of Local Rule 7.1, Jones v. Varsity Brands, Case* No. 2:20-cv-02892-SHL-tmp (W.D. Tenn. Nov. 2, 2023).
3. *Order Granting in Part and Denying in Part Motion to Strike Supplemental Declaration and Denying Motion for Leave to File Surreply, Jones v. Varsity Brands, Case* No. 2:20-cv-02892-SHL-tmp (W.D. Tenn. Nov. 8, 2023).

Georgia on My Mind

The following article appeared in the Summer 2023 issue of the American Bar Association's *Litigation Journal* and is reprinted with permission.

BY DANIEL W. VAN HORN



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On a recent visit to Atlanta, I attended a talk focused on the State Bar of Georgia's Lawyer's Creed. I was certainly not aware of the creed until that night, but hearing it for the first time left a profound impression on me. The states in which I am admitted have no similar creed. Georgia's Lawyer's Creed is as follows:

> **To my clients**, I offer faithfulness, competence, diligence and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.
>
> **To the opposing parties and their counsel**, I offer fairness, integrity and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.
>
> **To the courts**, and other tribunals, and to those who assist with them, I offer respect, candor and courtesy. I will strive to do honor to the search for justice.
>
> **To my colleagues in the practice of law**, I offer concern for your welfare. I will strive to make our association a professional friendship.

Aspirational statements like the creed matter. We often fall short of the high standards found in such statements. But our greatness is not measured in how often we measure up to those standards. Our greatness is measured in having high standards at all and in our earnest desire to get back up and try again when we fail. In that way, documents like the creed are critical to who we are as a profession.

> **To the profession**, I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.
>
> **To the public and our systems of justice**, I offer service. I will strive to improve the law and our legal system available to all, and to seek the common good through the representation of my clients.

The creed is just 186 words. Yet, in such a limited use of words, Georgia has managed to capture everything that we as attorneys are called to be and to do.

Promising our clients that we will use good judgment is by itself profound. How does one develop the judgment necessary to appropriately represent our clients? To do so requires truly understanding our clients and their needs. It also requires understanding when what our clients say they want is not good for them. The ability to say no to our clients might be the best use of good judgment.

We certainly owe a duty to represent our clients, but do we seek to make the dispute a dignified one? Do we seek reconciliation or do we seek first to fight? The creed calls on us to think about and care for opposing parties. How often do we do that?

Do we think of other lawyers as our colleagues to whom we owe a concern for their welfare, or do we see them as competitors or, worse yet, the "enemy?" Do we even think about lawyers who are not on the other side of cases from us? If we get so busy that we fail to notice other lawyers in need, have we done our duty to care for other lawyers as colleagues? When we fail to care for fellow lawyers, especially those suffering from depression, mental illness and substance abuse, we fail the clients they serve even though they are not our clients. We know that lawyers suffering depression, mental illness or substance abuse commit malpractice at a higher rate. Part of upholding our profession is caring for fellow lawyers.

Aspirational statements like the creed matter. We often fall short of the high standards found in such statements. But our greatness is not measured in how often we measure up to those standards. Our greatness is measured in having high standards at all and in our earnest desire to get back up and try again when we fail. In that way, documents like the creed are critical to who we are as a profession.

Even though I am not a Georgia attorney, I plan to adopt the creed as my own, and I encourage you to do the same. Wouldn't it be great if every jurisdiction adopted the creed or something very close to it and then regularly asked attorneys to reaffirm their duties under it? Just as couples renew their marriage vows, perhaps on Law Day each year, attorneys all across our country should follow Georgia's lead and affirm of reaffirm their commitment to the principles of the creed. ●

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Daniel W. Van Horn is an experienced trial attorney and litigator in the Memphis office of Butler Snow LLP. He was the 2022-23 chair of the American Bar Association Litigation Section, and is a past president of the Tennessee Bar Association. Van Horn obtained his J.D. from Vanderbilt University Law School and is licensed to practice in Tennessee, Mississippi and Arkansas. He has also been recognized as a National Outstanding Eagle Scout.

In Memoriam honors those members of the State Bar of Georgia who have passed away. As we reflect upon the memory of these members, we are mindful of the contributions they made to the Bar. Each generation of lawyers is indebted to the one that precedes it. Each of us is the recipient of the benefits of the learning, dedication, zeal and standard of professional responsibility that those who have gone before us have contributed to the practice of law. We are saddened that they are no longer in our midst, but privileged to have known them and to have shared their friendship over the years.

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Granbury, Texas
Mercer University
Walter F. George School
of Law (1982)
Admitted 1982
Died July 2023

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Atlanta, Georgia
Duke University School
of Law (1966)
Admitted 1966
Died May 2023

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Alpharetta, Georgia
University of Missouri
School of Law (1991)
Admitted 1994
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ALPHONSE ROBERT DATTOLO
Jackson, Georgia
Woodrow Wilson College
of Law (1980)
Admitted 1980
Died October 2023

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Hinesville, Georgia
Mercer University
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of Law (1982)
Admitted 1982
Died July 2023

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Stone Mountain, Georgia
Atlanta Law School (1978)
Admitted 1979
Died September 2023

GARY C. FURIN
Atlanta, Georgia
Duke University School
of Law (1963)
Admitted 1964
Died November 2023

GREGORY ARLIE GREENWELL
Acworth, Georgia
Atlanta's John Marshall
Law School (1993)
Admitted 1994
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Ellenwood, Georgia
Western State University
College of Law (1980)
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University of Georgia
School of Law (1970)
Admitted 1970
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Atlanta, Georgia
Yeshiva University
B. Cardozo School
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Emory University School
of Law (1984)
Admitted 1984
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Emory University School
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Admitted 1950
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Angier, North Carolina
Emory University School
of Law (1972)
Admitted 1974
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BREE KELLETT LOWRY
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Stetson University
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Duluth, Georgia
Atlanta Law School (1985)
Admitted 1986
Died April 2023

IRA L. RACHELSON
Atlanta, Georgia
Emory University School
of Law (1968)
Admitted 1968
Died October 2023

JOSHUA ALAN SHIRLEY
Duluth, Georgia
Samford University
Cumberland School of
Law (2007)
Admitted 2007
Died November 2023

P. RUSSELL TARVER
Birmingham, Alabama
Samford University
Cumberland School of
Law (1968)
Admitted 1969
Died September 2023

MINDY COFFINO WAITSMAN
Hoschton, Georgia
Emory University School
of Law (1977)
Admitted 1977
Died September 2023

SARAH MALLAS WAYMAN
Atlanta, Georgia
Woodrow Wilson College
of Law (1955)
Admitted 1955
Died October 2023

ODIS WILLIAM WILLIAMS II
Marietta, Georgia
Georgia State University
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Admitted 2008
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JANUARY

17 **Premises Liability**
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6 CLE Hours

19 **School and College Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

22–25 **Update on Georgia Law (Ski LE)**
The Westin Riverfront Resort & Spa, Avon, Vail Valley | Avon, Colorado
12 CLE Hours

25 **Residential Real Estate**
Bar Center | Atlanta, Georgia
6 CLE Hours

26 **Construction Law for the General Practitioner**
Bar Center | Atlanta, Georgia
6 CLE Hours

31 **Persuasive Storytelling & Presentation Skills for Lawyers**
Bar Center | Atlanta, Georgia
6 CLE Hours

FEBRUARY

1-2 **Estate Planning Institute**
The University of Georgia Center for Continuing Legal Education & Hotel
Athens, Georgia
9 CLE Hours

2 **Special Needs Trusts**
Bar Center | Atlanta, Georgia
6 CLE Hours

8 **Entertainment Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

9 **Boot Camp for Trial Lawyers**
Bar Center | Atlanta, Georgia
8 CLE Hours

15 **Fundamentals of Health Care Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

16 **ADR in the Workers' Compensation Arena**
Bar Center | Atlanta, Georgia
6 CLE Hours

16 **Ancient Foundations & Modern Equivalents**
Michael C. Carlos Museum | Emory University
Atlanta, Georgia
3 CLE Hours

16 **Punitive Damages**
Bar Center | Atlanta, Georgia
6 CLE Hours

22 **Labor and Employment Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

23 **Truck Accident Claims**
Bar Center | Atlanta, Georgia
6 CLE Hours

28 **Medical Malpractice Boot Camp**
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29 **Secured Lending**
Bar Center | Atlanta, Georgia
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29–MAR 1 **Social Security Law**
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MAY 16-18	Real Property Law Institute
MAY 31-JUN 2	Family Law Institute
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MARCH

1 **Trial and Error**
Bar Center | Atlanta, Georgia
6 CLE Hours

5 **Trademarks**
Bar Center | Atlanta, Georgia
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6 **Advanced Debt Collection**
Bar Center | Atlanta, Georgia
6 CLE Hours

6 **Restrictive Covenants and Trade Secrets**
Bar Center | Atlanta, Georgia
6 CLE Hours

7 **DUI 101**
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6 CLE Hours

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Bar Center | Atlanta, Georgia
6 CLE Hours

13 **Lawyer's Compass**
Bar Center | Atlanta, Georgia
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14 **Professionalism, Ethics & Malpractice**
Bar Center | Atlanta, Georgia
3 CLE Hours

14-16 **General Practice and Trial Institute**
Hotel Monteleone | New Orleans, Louisiana
12 CLE Hours

20 **Post Judgment Collection**
Bar Center | Atlanta, Georgia
6 CLE Hours

20 **Zoning Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

21 **Basic Fiduciary Law 101**
Macon, Georgia
CLE Hours TBD

21 **Jury Trials in Divorce**
Bar Center | Atlanta, Georgia
6 CLE Hours

22 **Abusive Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours

22 **Wrongful Death**
Bar Center | Atlanta, Georgia
6 CLE Hours

28 **Professional and Ethical Dilemmas in Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours

28 **Real Property Foreclosure**
Bar Center | Atlanta, Georgia
6 CLE Hours

29 **Georgia Auto Insurance Claims**
Bar Center | Atlanta, Georgia
6 CLE Hours

29 **Trial Advocacy**
Bar Center | Atlanta, Georgia
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29-30 **Wellness—Restoration Recalibration**
Unicoi State Park | Helen, Georgia
CLE Hours TBD

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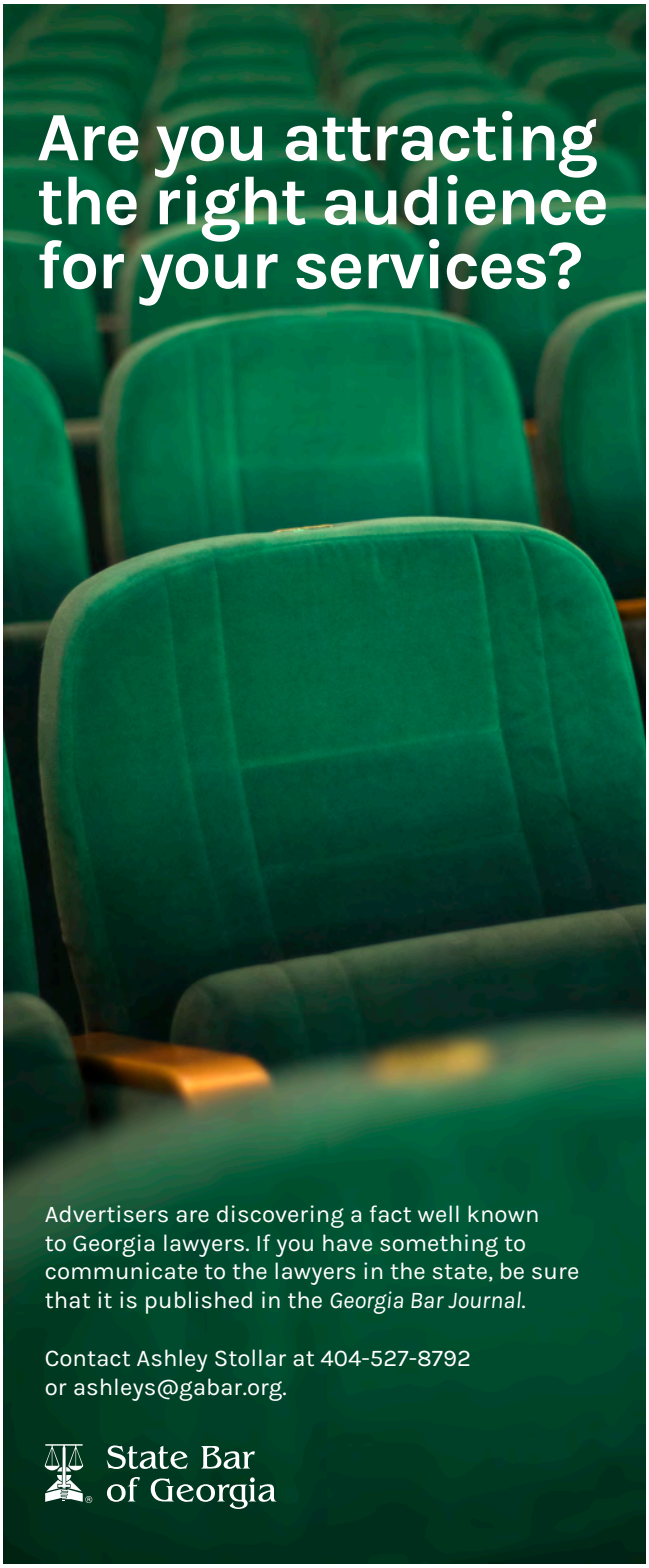

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